

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/17/0489

**Re: Property at 41 Trinity Avenue, Cardonald, Glasgow, G52 3ES ("the
Property")**

Parties:

**Mr Nick Suttle, 172 Montague Street, Apt 13A, Brooklyn, New York, 11201,
United States ("the Applicant")**

**Mr Lewis Charles Dunne, Ms Jacqueline Layden, 41 Trinity Avenue, Cardonald,
Glasgow, G52 3ES ("the Respondents")**

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondents)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that**

Background

1. This is an application by the Applicant for civil proceedings in relation to an assured tenancy in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended ("the Procedure Rules"), namely an order for payment of rent arrears. The tenancy in question was a Short Assured Tenancy of the Property by the Applicant to the Respondents dated 2 August 2013.
2. The application was dated 13 December 2017 and lodged with the Tribunal shortly thereafter. The application was accompanied with a rent statement showing arrears as at "1 December 2017" of £5,192, being unpaid rent of £550 over five consecutive months. (I note that this is probably meant to say 1 December 2017, in terms of the rent payment

date in the lease. I have assumed all references to the 1st of the month in the statement to mean the 2nd of the month.) The statement showed a history of continuous arrears from 2 February 2014. The lease for the said tenancy also accompanied the application and bore a rental payment of £550 per month, payable on the 2nd of each month. The application disclosed that a Simple Procedure claim had been lodged for £3,542, which would cover all arrears up to 2 September 2017. The application thus sought only an order for £1,650, being the arrears from 2 October to 2 December 2017.

The Hearing

3. On 23 March 2018, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at the Teacher Building, Glasgow, I was addressed by Ms Morrison, a paralegal acting for the Applicant. There was no appearance by the Respondents and both my clerk and the Applicant's agent confirmed that no contact had been received from or on behalf of the Respondents since the scheduling of the CMD. I had been provided with text messages exchanged between the Applicant and the First Respondent of 17 and 18 January 2018 but these did not disclose any representations on the application. In them the First Respondent represented that the Respondents were about to leave the Property. Ms Morrison advised me that she understood the Respondents were still in occupation of the Property as at the date of the CMD.
4. Given that the Teacher Building has rooms across a number of floors, at 10:00 I instructed the Venue Assistant to check with the building's reception and it was confirmed that the Respondents had not entered the building. I was thus satisfied that there was no appearance by the Respondents nor any attempt by them to provide submissions or explain their non-appearance. In the circumstances, I was satisfied to consider the application in full at the CMD in the absence of the Respondents.
5. The Applicant's agent addressed me on the current level of rent arrears, providing a revised Rent Schedule showing no rent payments having been received since 3 July 2017 with seven consecutive monthly rent payments having been missed. Further, the rent statement showed that some arrears had been present on the rent account since 2 February 2014. The level of arrears had been consistently above £1,000 since 2 March 2016 and at least three months of rent arrears have been due since 2 April 2017. As at 2 March 2018, the revised Rent Schedule disclosed total rent arrears of £6,842, being over twelve months of arrears.
6. The Applicant's agent stated that that the Simple Procedure claim referred to in the application had been dismissed and that the Applicant was now seeking only an order for payment from this Tribunal. The Applicant's agent made a motion that the application be amended in terms of rule 13 of the Procedure Rules to seek the full £6,842 of arrears disclosed on the

revised Rent Schedule but thereafter withdrew the motion and sought only the original order of £1,650 narrated in the application.

7. The application did not seek interest on the arrears and the Applicant's agent confirmed no order for interest was being made. The Applicant's agent confirmed no order in respect of expenses was to be made.

Findings in Fact

1. On 2 August 2013, the Applicant let the Property to the Respondents by lease (stating it was a Short Assured Tenancy) with a start date of 2 August 2013 and an end date of 2 February 2014 ("the Tenancy").
2. Under the Tenancy, the Respondents were to make payment of £550 per month in rent to the Applicant on the 2nd of each month.
3. Under the Tenancy, the Respondents are joint and severally liable for rental payments to the Applicant.
4. As of 2 December 2017, there was unpaid rent of £5,192 due by the Respondents to the Applicant in terms of the Tenancy, including £1,650 for rent due on 2 October, 2 November and 2 December 2017.
5. On 13 December 2017, the Applicant raised proceedings for an order for payment of rent arrears of £1,650.
6. On 23 March 2018, the Respondents were in rent arrears under the Tenancy of £6,842, including seven months consecutive unpaid rent being the rent due on 2 August 2017 to 2 March 2018.
7. The Respondents provided no evidence of payment of any part of the said unpaid rent of £6,842.

Reasons for Decision

8. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. I was satisfied, on the basis of the application and supporting papers, and the updated rent schedule and oral submissions provided by the Applicant's agent at the CMD, that rent arrears of £6,842 were outstanding as at the date of the CMD.
9. The application having been raised for £1,650, I was satisfied that the necessary level of evidence for such civil proceedings had been provided. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the original sum sought of £1,650 against the Respondents with joint and several liability.

Decision

10. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondents, joint and severally, for payment of the sum of £1,650 to the Applicant.

Right of Appeal

In terms of Section 46 of the Tribunal (Scotland) Act 2014, a party aggrieved by the decision of the Tribunal may appeal to the Upper Tribunal for Scotland on a point of law only. Before an appeal can be made to the Upper Tribunal, the party must first seek permission to appeal from the First-tier Tribunal. That party must seek permission to appeal within 30 days of the date the decision was sent to them.

Joel Conn

Legal/Member/Chair

23 March 2018
Date