

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/18/1308

Re: Property at 23 Dalhousie Gardens, Bishopbriggs G64 3DL ("the Property")

Parties:

Mrs Caroline Maddox, Pinjarra, Pitcaple, Inverurie AB51 5EE ("the Applicant")

Mr Stuart James Craig & Mrs Megan Craig ("the Respondents")

Tribunal Members:

Susan Christie (Legal Member)

Decision (all Parties participated in Teleconference Hearing)

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

Background

1. The Application for payment of a sum of money arising out of a Short Assured Tenancy between the Parties was received by the Tribunal on 29 May 2018.
2. A Notice of Acceptance of the Application for determination by the Tribunal, made under Rule 9 of the First-Tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 as amended ("the Rules") is dated 19 June 2018.
3. The Application type is stated as having been made under Rule 70 of the Rules.
4. On 12 July 2018, the Tribunal sent a letter to the Parties intimating the day, time and venue of the Case Management Discussion (CMD). Further detailed information was given as to what could occur then including the making of a decision in absence should they fail to attend.
5. The Respondents were also invited to make written representations by 31 July 2018. None were lodged.
6. The CMD took place on 9 August 2018 at 2pm within Glasgow Tribunals Centre, Room 112, 20 York Street, Glasgow, G2 8GT.

7. The Applicant was personally present. It became apparent at preliminary discussion, that the Respondents had moved address and were no longer at the Property address. Their new address is 12 Armour Drive, Kirkintilloch, Glasgow, G66 2NZ.
8. The Tribunal could therefore not be satisfied that the Respondents had received proper intimation and the Tribunal continued the CMD to a later date to be fixed.
9. The Respondents address was amended.
10. The CMD Note was issued to the Parties on 16 August 2018 by Recorded Delivery post.
11. On 2 October 2018, the Tribunal sent a letter to the Parties intimating the day, time and venue of the new Case Management Discussion (CMD). Further detailed information was given as to what could occur then including the making of a decision in absence should they fail to attend.
12. The Respondents were also invited to make written representations by 17 October 2018. None were lodged.

The Case Management Discussion

13. The CMD took place on 24 October 2018 at 2pm within Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT by way of teleconference call, as intimated to the Parties by letter of 18 October 2018.
14. It was agreed that the Short assured Tenancy between the Parties was for an initial term of 12 months from 11 November 2016 to 11 November 2017 and monthly thereafter; at a rental of £795 payable in advance on the 11th of the month; and that a security deposit was paid at the outset of £895.
15. It was agreed that between 11 June 2016 and 11 May 2018 18 months' rent was due which totalled £14,301. Had the extra month at the end been included, depending on when the Respondents moved out in May 2018, the amount would have been £15,105. It was agreed that the payments made in total to rent equalled £11,552.34.
16. There was no agreement between the Parties as to the date the Respondents quit the Property; or whether the security deposit had been properly applied; or whether the Respondent was entitled to take off the advance of the first month's rent.
17. The sum due could have been either £2757.66 or £3552.66 before any consideration of the matters mentioned in number 16 above.
18. The Parties were advised that if the matter required to be continued further for a decision, the Respondents seeking more time to consider and take advice, the options would be to continue to another CMD or fix an evidential Hearing. I asked their preference but also indicated that if they could reach an agreement today then there would be no need for further procedure and I could make an Order.
19. Both parties were prepared to seek to agree the sum today to allow the order to be made to conclude.
20. The Applicant indicated she was prepared as a compromise to proceed with the lower figure of £2757.66 and further give the Respondents the benefit of a deduction of £847 (the sum she recovered from the security deposit) if the matter was agreed today. This brought out a sum due of £1910.66.

21. The Respondents agreed to an Order being made at that figure today to conclude.
22. There being agreement between the parties I agreed to make an order for payment of £1910.66.

Findings in Fact

- I. The parties entered into a Short Assured Tenancy which commenced on 11 November 2016 for an initial term of 12 months and continued thereafter on a monthly basis until it was brought to an end.
- II. The Respondents quit the Property sometime in May 2018.
- III. The Contractual tenancy between the Parties entitles the Applicant to recover sums of money from the Respondent by way of outstanding rent due.
- IV. The total sum due by the Respondent is £1910.66.

Findings in Fact and law

- V. The sum of £1910.66 is due and owing by the Respondent to the Applicants.

Reasons for Decision & Decision

The contractual terms of the lease between the Parties entitles the Applicant to recover unpaid rent due and owing from the Respondents. The parties ultimately were prepared to agree a compromise today to conclude. I was prepared to implement the agreement by making the Order today for payment.

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.

S Christie

Date 24 October 2018

Legal Member/Chair