



**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/21/1966

Re: Property at 236 Headland Court, Aberdeen, AB10 7GZ (“the Property”)

Parties:

Mr Max Burt, 21 Wellside Avenue, Kingswells, Aberdeen, AB15 8EF (“the Applicant”)

**(First) Maimuna Touray, 131 South Anderson Drive, Aberdeen, AB10 7PL and
(Second) Miss Haddy Njai, 236 Headland Court, Aberdeen, AB10 7GZ (“the Respondents”)**

Tribunal Members:

Gillian Buchanan (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision (in absence of the Respondents)

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

At the Case Management Discussion (“CMD”), which took place by telephone conference on 21 February 2022, the Applicant was in attendance. The Respondents were neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

Background

A CMD had previously taken place on 11 January 2022. That CMD took place concurrently with a CMD in the related eviction proceedings bearing reference FTS/HPC/EV/21/837.

At that CMD the tribunal identified that it required to resolve the issue of whether the Respondent is the Tenant or Guarantor under a Private Residential Tenancy Agreement entered into between the Applicant, the Respondent and Ms Maimuna Touray in on around February 2020 ("the PRT").

The tribunal also required to be satisfied in the eviction proceedings that the Notice to Leave had been properly served by reference to the PRT.

Further documentation was therefore sought from the parties and the tribunal issued a direction to the parties to produce the following documentation by 12 noon on 16 February 2022:-

1. The Applicant was required to provide:-

Documentary evidence vouching that the Notice to Leave issued to the Respondent in respect of the Property and dated 29 April 2021 was sent by recorded delivery post and the date thereof; and

2. The Respondent was required to provide:-

- i. The Private Residential Tenancy Agreement prepared by the Applicant and retained by the Respondent in respect of the Property and signed by the Applicant, the Respondent and Ms Maimuna Touray in or around February/March 2020; and
- ii. Documentary evidence vouching the occupant of the Property from 5 March 2020, for example a Council Tax statement, utility bill or similar.

Additional Documentation/Representations

By email dated 6 February 2022 the Applicant produced to the tribunal evidence of the Notice to Leave having been issued by "Royal Mail Signed For 2nd Class" on 29 April 2022.

The Applicant also produced to the tribunal (a) copies of communications between him and the Respondent dated 13, 17 and 18 February 2020 when the Property was being advertised for rent, and (b) an amended Form F increasing the rent arrears claimed to £3,400.00.

The Respondent did not produce any documentation in response to the Direction or make any further representations.

The CMD

At the CMD the Applicant stated that the rent arrears had increased to £3,400.00. There had been no communications from the Respondent or Ms Touray since the last CMD on 11 January 2022 and no payments had been received to reduce the rent arrears.

The Applicant stated that the Property is still occupied. He drives passed the Property on his way to and from work and the curtains are sometimes open and sometimes closed and the lights can be seen to be switched on too.

At the CMD the Applicant asked that the sum claimed from the Respondents be amended to £3,400.00. Having regard to the terms of Rule 14A of the Rules, the Applicant produced to the tribunal an email dated 6 February 2022 intimating the amended Form F to the Respondents.

Findings in Fact

- The Applicant is the heritable proprietor and landlord of the Property.
- The First and Second Respondents are the Guarantor and Tenant respectively in terms of the PRT signed by the parties on 21 February 2020.
- As at the CMD on 21 February 2022, rent arrears accrued amounted to £3,400.

Reasons for Decision

At the CMD on 11 January 2022 the Respondents admitted the rent arrears then due. Subsequently the arrears have increased.

The Applicant's request to amend the application has been timeously lodged and intimated in terms of Rule 14A of the Rules.

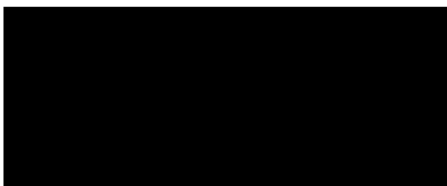
Decision

The tribunal determined that:-

1. The Applicant's request to amend the application should be allowed; and
2. An thereafter order for payment of rent arrears of £3,400.00 should be granted in terms of the amended application.

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.



Legal Member/Chair

21 February 2022
Date