



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 (“the 2014 Act”) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Reference number: FTS/HPC/PR/18/1444

Re: Property at 12/24 Ethal Terrace, Edinburgh, EH10 5NA (“the Property”)

The Parties:

**Mrs Ziaohui Zhou, 28 Oxfords Road North
 (“the Applicant”)**

**JFT & KLM Greig Trust Byresloan Farm, Cardowie, Markinch, KY7 6HJ
 (“the Respondent”)**

Tribunal Member:

Ms. Susanne L. M. Tanner Q.C. (Legal Member)

Decision (in absence of the Applicant)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay the Applicant the sum of SEVEN HUNDRED AND FIFTY POUNDS (£750.00) STERLING; and made an Order for Payment in respect of the said sum

STATEMENT OF REASONS

1. Procedural background

- 1.1. On 9 June 2018, the Applicant made an application to the tribunal in terms of Section 16 of the Housing (Scotland) Act 2014 (“the 2014 Act”) and Rule 103

of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules”). The Application was accompanied by a variety of documentation, including a decision of the tribunal in case FTS/HPC/PR/17/0506. (A separate case had already proceeded under Rule 103 (FTS/HPC/PR/17/0506) and the tribunal reached a decision in relation to that case on 31 January 2018 and made a payment order and a Regulation 10 order against the Respondent.)

- 1.2. The Applicant later made a request to amend the Application to proceed under Section 16 of the 2014 Act and Rule 70 of the 2017 Rules.
- 1.3. On 8 March 2019, the Application was accepted for determination and a Case Management Discussion (“CMD”) was thereafter fixed for 2 April 2019 at 1130h in George House, Edinburgh. Parties were notified that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. Parties were notified that if they do not attend the CMD, this will not stop a decision or order being made by the tribunal if the tribunal considers that there is sufficient information before it and the procedure has been fair. The Respondents were invited to submit written representations to the tribunal by 28 March 2019. The Respondent was served with the notification and application paperwork by Sheriff Officers.
- 1.4. A Case Management Discussion (“CMD”) took place on 2 April 2019. The Applicant did not attend the CMD as she was in China. Mr Kenneth Greig and Mrs Heather Greig attended on behalf of the Respondent. Reference is made to the Notes on the CMD which were prepared by the Legal Member and issued to parties. Both parties were directed to do certain things and the CMD was adjourned to a future date to be notified.
- 1.5. A further CMD took place on 15 May 2019. The Applicant did not attend and confirmed that she was still in China. Mr Greig attended on behalf of the Respondent. The Respondent sought time to pay the then outstanding amount of £900.00 to the Applicant at the rate of £150.00 per calendar month. The CMD was adjourned for a period of six months for this purpose. Reference is made to the Notes on the CMD which were prepared by the Legal Member and issued to parties.
- 1.6. A further CMD took place on 6 December 2019. The Applicant did not attend and was believed to be in China. Mr Greig attended on behalf of the Respondent. Mr Greig advised that only £150 had been paid since the last CMD. He acknowledged that the remaining £750.00 was due to be paid. He offered to pay at the rate of £50.00 per calendar month. The CMD was

continued for a further period of six months. Reference is made to the Notes on the CMD which were prepared by the Legal Member and issued to parties.

- 1.7. The CMD was adjourned to a future date to be notified as a result of the Covid-19 pandemic.
- 1.8. On 19 August 2020, both parties were notified that a CMD teleconference would be held on 15 September 2020 at 1400 which they were required to attend. Dial in details were provided.
- 1.9. On 28 August 2020, the tribunal issued Directions dated 26 August 2020 to both parties, requiring compliance by 3 September (the Respondent) and 10 September (the Applicant).
- 1.10. On 2 September 2020, the Respondent submitted a response to the tribunal's Direction, attaching three copy redacted bank statements. The Respondent stated that £750.00 was outstanding to the Applicant, three payments of £50 having been made on 19 September 2019, 19 November 2019 and 19 December 2019. The Respondent stated that as a result of the effect of the Covid-19 pandemic, there were constraints on income that meant no other payments had been made.
- 1.11. The Applicant failed to comply with the terms of the Direction and made no contact with the tribunal prior to the hearing.

2. Hearing: 15 September 2020, 1400h, by teleconference

- 2.1. The Applicant failed to attend the hearing.
- 2.2. Mr Kenneth Greig attended the hearing on behalf of the Respondent.
- 2.3. The tribunal was satisfied that the requirements of rule 24(1) regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the party present and all the material before it.
- 2.4. Mr Greig admitted that the Respondent owes £750.00 to the Applicant. He stated that the Respondent has had problems gathering income on the flat in order to pay the bills. He stated that it has been a while since they made a payment to the Applicant. He referred to the bank statements which had been lodged showing three payments of £50.00 each in 2019. He stated that the tribunal's previous order of £600.00 (in relation to a separate case) had been

paid in full. He stated that the £750.00 which was outstanding in respect of the present Application represented the sum of £1200.00, which was part of the tenancy deposit, less £300.00 which was paid into a deposit protection scheme, less £150.00 which had been paid to the Applicant in three instalments of £50.00. He agreed that the outstanding balance owed to the Applicant is £750.00.

3. The tribunal makes the following findings-in-fact:

3.1. As at 15 September 2020, the Respondent owes £750.00 to the Applicant in connection with a short assured tenancy which has finished.

4. **Decision**

4.1. The tribunal determined on the basis of the Application (including supporting documents) and the written and oral representations of parties that the Applicant had proved that the Respondent owes the Applicant the sum of £750.00 sought on behalf of the Applicant and made an order for payment by the Respondent to the Applicant for the said sum.

4.2. Mr Greig stated that he wished the tribunal to provide an application for Time to Pay which he would consider and complete if so advised.

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.

Susanne Tanner

**Ms. Susanne L. M. Tanner Q.C.
Legal Member/Chair**

15 September 2020