



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/3790

Re: Property at 8 Lomond View, Drongan, East Ayrshire, KA6 7BS (“the Property”)

Parties:

Ms Donna Riley, 8 Lomond View, Drongan, KA6 7BS (“the Applicant”)

Mr Jeffrey Halley, Mrs Julieanne Roberts, 3602E Windemere Drive, Phoenix, Arizona, 85048, United States (“the First and Second Named Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the first named Respondent Mr Jeffrey Halley to the Applicant in the sum of £9431.38.

Background

1. By application dated 16 August 2022 the Applicant applied to the Tribunal for an order for payment in respect of alleged rent arrears and damages arising from the Respondents’ tenancy of the property. The Applicant submitted correspondence from the Letting Protection Service Scotland and text messages with the Respondent in support of the application
2. Following further correspondence between the Applicant and the Tribunal administration the Applicant provided a copy of the tenancy agreement, a rent statement and full details of the claim.
3. By Notice of Acceptance dated 18 January 2023 a legal member of the Tribunal accepted the application and a Case Management Discussion (“CMD”) was assigned.

4. Intimation of the CMD and case papers on the Respondents by Sheriff Officers was unsuccessful as the Respondents had moved to the USA.
5. A CMD was held by teleconference on 21 March 2023 and was adjourned to allow service of the case papers on the Respondents by post.
6. Service of the case papers on the First Named Respondent was successful. The case papers sent to the Second Named Respondent were returned as undelivered.

The Case Management Discussion

7. A CMD was held by teleconference on 6 June 2023. The Applicant attended in person. Neither Respondent attended or was represented. The Tribunal being satisfied that the First Named Respondent had been given proper intimation of the CMD determined to proceed in his absence. The Applicant said she understood the Second Named Respondent was now married to the First Named Respondent and used the surname Halley and that was probably why the case papers had been returned. The Applicant advised the Tribunal that she was prepared to proceed with the application against the First Named Respondent alone. The Tribunal noted that the Respondents were jointly and severally liable.
8. The Applicant clarified the position with regards to the rent due and amended the sum claimed to £9431.38 as the Respondent's deposit of £1200.00 had been returned to her by Letting Protection Service Scotland. The Applicant sought an order for payment against the First Named Respondent for the sum of £9431.38.

Findings in Fact

9. The parties entered into a Private Residential Tenancy that commenced on 1 October 2018.
10. Following the end of the tenancy the Respondents' deposit of £1200.00 was paid to the Applicant.
11. The First Named Respondent has been served with the case papers but has not submitted any written representations or attended the CMD to oppose the Applicant's claim.

Reasons for Decision

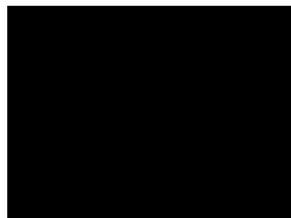
12. The Tribunal was satisfied from the documents produced that the parties entered into a Private Residential Tenancy that commenced on 1 October 2018.
13. The Tribunal was satisfied from the documents produced and the oral submissions of the Applicant that the First Named and Second Named Respondents were jointly and severally liable for any debt that may be due to the Applicant in respect of the tenancy.
14. The Tribunal was satisfied that the First Named Respondent had been given proper intimation of the CMD and had chosen not to submit written representations or attend the CMD. As there was no opposition to the application the Tribunal granted the order sought as against the First Named Respondent and allowed the Applicant to withdraw the application against the Second Named Respondent.

Decision

15. There being no written representations submitted by the First Named Respondent and no attendance by him at the CMD and the Tribunal being satisfied that the application is competent and that it has jurisdiction finds the Applicant entitled to an order for payment by the First Named Respondent Mr Jeffrey Halley to the Applicant in the sum of £9431.38.

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.



**Graham Harding
Legal Member/Chair**

**6 June 2023
Date**