



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/CV/20/1132

Re: Property at 4/1 12 Park Quadrant Park, Glasgow, G3 6BD (“the Property”)

Parties:

**Thomas W Dalglish & Son, c/o Rettie and Co, 147 Bath Street, Glasgow, G2
4SQ (“the Applicant”)**

**Mr Anthony Goodings, 4/1 12 Park Quadrant Park, Glasgow, G3 6BD (“the
Respondent”)**

Tribunal Members:

Virgil Crawford (Legal Member)

Decision (in absence of the Respondent)

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

BACKGROUND

- 1 By lease dated 23 October 2019 the Applicant let the property to the Respondent. The start date of the lease was 25 October 2019;
- 2 The rent payable was £1,995.00 per calendar month;
- 3 It is alleged that the Respondent made payment of rent for the first 2 months and, thereafter, no payments were made;
- 4 The Applicants raised an action for payment claiming rent arrears of £7,980.00 as at 29 April 2020;
- 5 A case Management Discussion was assigned to take place on 14 August 2020. At that Case management Discussion the Tribunal allowed the amount claimed to be amended to £15,960.00;
- 6 Prior to that Case Management Discussion the Respondent was served with a full copy of all relevant papers, including a time to pay application and time to pay guidance. This was done by sheriff officers on 21 July 2020 and a sheriff officer certificate of service was provided to the Tribunal;

- 7 The Case Management Discussion note prepared by the Tribunal in relation to that Case management Discussion states that the Respondent:-
 - a. Accepted that some rent arrears were due;
 - b. Explained that the Respondent had lost his employment;
 - c. Raised issues in relation to the physical condition of the Property and suggested that, as a result of defects the full amount claimed was not due.

In essence, it was being suggested that the rent should be abated. It was not clear whether it was being suggested that there should be an award of damages also;
- 8 The Respondent stated that he may seek legal advice in relation to the matter;
- 9 Despite opposition by the Applicants representative, the Tribunal adjourned the Case Management Discussion and issued a Direction to Parties;
- 10 The Direction required the Respondent to provide further information in relation to a number of matters relative to the application and his purported defence. The Respondent failed to comply with the Direction issued to him;
- 11 Prior to the Case management Discussion on 5 October 2020 the Applicant presented an application to amend the amount claimed by increasing it to £17,955.00. This application to amend the amount claimed was intimated to the Respondent;

CASE MANAGEMENT DISCUSSION

- 12 A Case management Discussion was held on 5 October 2020 at 11.30am. It was conducted by teleconference. This was, of course, a continued Case Management Discussion following the previous one held on 14 August;
- 13 Both parties had received intimation of the Case Management Discussion. The Applicant was represented by Miss k Donnelly. Solicitor. Messrs Bannatyne, Kirkwood France & Co. Glasgow. The Respondent did not participate;
- 14 At 10.02am on 5 October 2020 the Tribunal received an e mail from the respondent or on his behalf. It stated:-
 - 15 ***“Good Morning,***
 - 16 ***I can only apologise for the short notice but unfortunately I, Anthony Goodings is unable to call in for the hearing this morning (Monday 5 October)***
 - 17 ***My hearing has really deteriorated over the last few months and to the stage he is unable to hear on the phone. I am now having to seek medical advice as it's affecting my day to day life.***
 - 18 ***I would like to submit a time to pay direction but I do not have the form to do so. Can you please help with this?***
 - 19 ***Once again I apologise for the lateness but I have tried my very best to make it work.***
 - 20 ***Kind regards***
 - 21 ***Anthony Goodings”***
- 22 The Applicant's Solicitor opposed any further adjournment of the case, despite the e mail from the Respondent. She submitted:-

- a. The Respondent had failed to comply with the Direction issued by the Tribunal;
 - b. The Respondent had failed to obtain legal advice despite indicating at the previous Case Management Discussion that he intended to do so;
 - c. The Respondent had ample opportunity to arrange representation if he wished and, given his hearing issues appear to have existed previously, he ought to have done so;
 - d. The respondent has now vacated the Property but only on Saturday 3 October 2020;
 - e. On that day he e mailed the letting agent for the property and made no reference to any other difficulty;
 - f. It was within the solicitor's knowledge that the Respondent had previously rented 2 other properties, failed to pay rent and, when proceedings were raised, at the last minute contacted the Tribunal seeking time to pay;
 - g. The Respondent is taking steps to delay the proceedings and any further delay would prejudice the Applicant. Reference was made to his suggestion at the previous Case Management Discussion that he intended moving to London for employment. If that is so, his removal outwith Scotland may impede enforcement of any order;
 - h. In relation to his suggestion that he did not have forms in relation to a time to pay order, that was incorrect. Those should have been served by the Tribunal, and they had been;
 - i. In any event, given the amount now due (almost £18,000.00) and the fact the Respondent is apparently unemployed, it is unlikely any realistic payment proposal could be made;
- 23 Having regard to the history of the case and the information available to it, the Tribunal determined that:-
- a. An amendment of the amount claimed would be permitted. The amount claimed was amended to £17,955.00;
 - b. Thereafter, an order for payment in that amount, with interest thereon, would be made;

FINDINGS IN FACT

- 24 The Tribunal found the following fact to be admitted or established:-
- i. By lease dated 23 October 2020 the Applicant let the property to the Respondent. The start date of the lease was 25 October 2020;
 - ii. The rent payable was £1,995.00 per calendar month;
 - iii. The Respondent made payment of rent for the first 2 months and, thereafter, no payments were made;
 - iv. The Applicants raised an action for payment claiming rent arrears of £7,980.00 as at 29 April 2020;
 - v. A case Management Discussion was assigned to take place on 14 August 2020. At that Case management Discussion the Tribunal allowed the amount claimed to be amended to £15,960.00;
 - vi. Prior to that Case Management Discussion the Respondent was served with a full copy of all relevant papers, including a time to pay application and time to pay guidance. This was done by sheriff officers

on 21 July 2020 and a sheriff officer certificate of service was provided to the Tribunal;

- vii. At the Case Management Discussion on 14 August 2020 the Respondent intimated what he considered to be a defence to the claim for payment, or part thereof, and intimated that he intended to obtain legal advice;
- viii. The Tribunal adjourned the Case Management Discussion and issued a direction to Parties. The Direction required the Respondent to provide further information in relation to a number of matters relative to the application and his purported defence;
- ix. The respondent failed to comply with the Direction issued to him;
- x. As at 5 October 2020 the amount of rent due by the Respondent to The Applicant was not less than £17,955.00

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REASONS FOR DECISION

- 26 While the Respondent previously suggested that he wished to defend the claim for payment of rent, he clearly accepted that a significant amount of the amount claimed was due, asserting at the Case Management Discussion on 14 August 2020 that the amount should be reduced due to defects in the Property;
- 27 Despite being given an opportunity to provide full details of that defence, and indeed being issued with a Direction requiring him to provide full details, he failed to do so;
- 28 Despite intimating that he intended seeking legal advice, it appears he failed to do so;
- 29 On the basis of the information before the Tribunal on 5 October 2020 there was no defence to the claim for payment;
- 30 The e mail from the Respondent received on the morning of the Case Management Discussion appeared to accept that payment was due and stated that he would wish time to pay;
- 31 Given the passage of time, the arrears had increased and in the circumstances it was appropriate to allow the amount claimed to be amended to reflect the increased amount now due;
- 32 Having regard to the history of the case, the information available about the Respondent having vacated the Property, the information suggesting that he may relocate to London, and the desire of the Applicant to enforce any order for payment issued, any further delay in the proceedings was likely to prejudice the interests of the Respondent;
- 33 In any event, the Respondent had ample opportunity to state his position and any purported defence to the Tribunal;
- 34 The lease between the Parties provided for interest on late payment of rent at the rate of 5% above Bank of England base rate. Bank of England base rate as at 5 October 2020 was 0.1%. Interest was therefore due and payable at the rate of 5.1% on any order for payment made.

DECISION

The Tribunal granted an order against the Respondent for payment of the undernoted sum to the Applicant:

The sum of SEVENTEEN THOUSAND NINE HUNDRED AND FIFTY FIVE POUNDS (£17,955.00) STERLING

With Interest thereon at the rate of 5.1% running from the date of the decision of the First-tier Tribunal to grant this order, being 5 October 2020 until 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.

Virgil Crawford

5 October 2020

Date