



**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/20/1208

Re: Property at 29 Tobias Street, Edinburgh, EH16 4WG (“the Property”)

Parties:

**Sendro Ltd, c/o Southside Property, 20 Nicholson Street, Edinburgh, EH8 9DH
 (“the Applicant”)**

**Chloe Fawcus, Mr Martin Dunne, 38 Muirhouse Green, Edinburgh, EH4 4RT
 (“the Respondent”)**

Tribunal Members:

Andrew Upton (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Respondent is liable to the Applicant in the sum
of TWO THOUSAND NINE HUNDRED AND ONE POUNDS AND FIFTY EIGHT
PENCE (£2,901.58) STERLING**

FINDINGS IN FACT

1. The Applicant was the landlord, and the Respondents the tenants, of the Property under and in terms of a Private Residential Tenancy which commenced on 28 December 2018.
2. In terms of Clause 8 of the tenancy agreement, the rent was £1,095 per calendar month payable monthly in advance on the first of the month.
3. In terms of Clause 11 of the tenancy agreement, the Respondents paid a tenancy deposit of £1,095.

4. In terms of Clause 37.1 of the tenancy agreement, the Respondents agreed to make payment to the Applicants of late payment fees where they were late with their rent. Those fees were £30 if they were one week late, £60 if they were two weeks late, and £90 if they were three weeks late.
5. During the period 1 January 2020 until 30 June 2020, the Respondents were liable to make payment of rent in the total sum of £6,570.
6. During the period 1 January 2020 until 30 June 2020, the Respondents were more than three weeks late in paying rent on five occasions, and one week late on one occasion.
7. At 31 December 2019, the Respondents' rent account was £95 in credit.
8. During the period 1 January 2020 until 30 September 2020, the Respondents made payment to the Applicant in the total sum of £2,958.42.
9. The tenancy deposit has been applied to the rent arrears.

FINDINGS IN FACT AND LAW

1. The Respondents are jointly and severally under contractual obligation to make payment to the Applicants in the sum of £2,421.58 in respect of rent.
2. The Respondents are jointly and severally under contractual obligation to make payment to the Applicants in the sum of £480 in respect of late payment charges.

STATEMENT OF REASONS

1. This application called for a Case Management Discussion by teleconference call on 30 September 2020. The Applicants were represented by Mr Crombie, solicitor. The Respondent were not present or represented on the call.
2. In this application, the Applicants seek payment of a sum which is, in reality, the aggregate of two contractually due amounts: (i) rent; and (ii) late payment charges.
3. The Applicants initially sought payment of rent arrears in the sum of £5,380 towards rent arrears and £450 towards late payment charges. They asserted that the Respondents were jointly and severally liable for payment of those sums. They produced a copy of the tenancy agreement with their application. In terms thereof, the rent payable was £1,095 per calendar month (clause 8), the Respondents paid a tenancy deposit of £1,095 (clause 11) and the Respondents agreed to pay late payment charges on any late payment of rent (clause 37.1). Specifically, the Respondents agreed to pay £30 if one week late in paying rent, £60 if two weeks late, and £90 if three or more weeks late.

4. On 9 September 2020, the Applicant's Representative wrote to the Tribunal, in terms of Rule 14A of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Rules ("the Rules") to amend the sum sued for to reflect (i) an additional rent payment which had fallen due on 1 June 2020, (ii) payments which had been received, including the application of the tenancy deposit to the arrears, and (iii) an additional late payment charge which had fallen due in respect of the missed rent for June 2020. In terms thereof, the rent arrears were said to be £2,543.86 and the late payment charges £480.
5. On the eve of the Case Management Discussion, the Applicant's Representative lodged an updated statement which tended to suggest that, following receipt of additional payments, the rent arrears were now £2,421.58 and the late payment charges £480.
6. At the Case Management Discussion, Mr Crombie confirmed that the sums due by the Respondents had decreased. As such, the sum sought by the Applicants was £2,901.58, being £2,421.58 towards rent arrears and £480 towards late payment charges.
7. In terms of the Rules, when making any decision, I must have regard to the overriding objective in Rule 2 to determine applications justly. That includes dealing with matters expeditiously. In terms of Rule 17, the Tribunal may do anything at a Case Management Discussion that it may do at a Hearing, including make a decision.
8. Notice of the Case Management Discussion was given to the Respondents, together with both a copy of the application and notice of the proposed amendment. The Respondents have chosen not to participate in these proceedings. In the circumstances, I can only conclude that they do not dispute the terms of the application as prospectively amended.
9. Accordingly, I will grant the Applicants' motion to amend the application to seek payment of the reduced sum of £2,901.58. Thereafter, I am satisfied that it is not disputed that the Respondents owe £2,421.58 to the Applicants in respect of rent arrears and £480 in respect of late payment charges, both sums due under contract obligations. For that reason, I find the Respondents jointly and severally liable to make payment to the Applicants in the total sum of £2,901.58. I granted an order in those terms.

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.

Andrew Upton

30/09/2020

Legal Member/Chair

Date