

**Housing and Property Chamber**  
First-tier Tribunal for Scotland

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**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 and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.**

**Chamber Ref: FTS/HPC/CV/18/1143**

**Re: Property at Flat 3, 143 South Gyle Mains, Edinburgh, EH12 9HU ("the Property")**

**Parties:**

**Mr Graeme Pearson, 6 Lawson Crescent, South Queensferry, EH30 9JE ("the Applicant")**

**Mr Craig Martin, Flat 3, 143 South Gyle Mains, Edinburgh, EH12 9HU ("the Respondent")**

**Tribunal Member:**

**George Clark (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an Order should be made requiring the Respondent to pay to the Applicant the sum of Four Thousand Five Hundred Pounds.**

**Background**

By application, received by the Tribunal on 11 May 2018, the Applicant requested an order for the Respondent to pay to the Applicant a sum equivalent to £750 per month from 12 April 2018 until the date on which the Applicant is able to resume possession of the Property. In supporting documentation, the Applicant stated that the Respondent had moved into the Property on 12 April 2018. The Respondent had said that he was unable to pay the first month's rent of £750 or the deposit of £750 on that day, but would pay those sums the following day. He had failed to do so and had not paid anything towards rent since the date he moved in.

## **Case Management Discussion**

A Case Management Discussion took place at Riverside House, 502 Gorgie Road, Edinburgh EH12 3AF on the afternoon of 18 September 2018. The Applicant attended the Case Management Discussion. The Respondent was neither present nor represented.

The Applicant told the Tribunal that the Respondent had still made no rental payments since the date of the application, so had failed to pay any rent since he moved into the Property on 12 April 2018 and he had still not paid the deposit. The reason that the Applicant had allowed the Respondent to move in without paying the deposit or the first month's rent was that he had followed up on a reference provided by the Respondent, who had told him he was employed by Lloyds TSB and had given him a contact number for his boss. The Applicant had telephoned that person, Rose Bolton, and she had told him that the Respondent had worked for her for a year. The Applicant had acted on the faith of that when allowing the Respondent to move in without paying any money. The Respondent had said he would pay on the following day. When things had begun to go wrong, the Applicant had left messages for Rose Bolton, but these had not been answered. The Applicant had then gone to the place of work given to him for the Respondent, but they had never heard of the Respondent or the person who had provided the telephone reference.

The latest payment of rent had been due on 12 September 2018.

## **Findings in Fact**

The Tribunal finds that the Respondent has failed to meet his obligation to pay the deposit of £750 and has failed to pay rent lawfully due from 12 April 2018. The Respondent has offered no explanation for his failure to make these payments.

## **Reasons for Decision**

Rule 17 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do at a Case Management Discussion anything which it may do at a hearing, including making a decision. The Tribunal was of the view that it had before it all the information that it required in order to make a decision and that it would decide the application without a hearing.

The Tribunal was satisfied that the deposit and rent from 12 April 2018 were lawfully due by the Respondent. The view of the Tribunal was that the Respondent wilfully and deliberately failed to make payments of rent and to pay the deposit. This view was reinforced by the Applicant's evidence that suggested the Respondent had provided a false reference.

The Applicant had asked for an order in respect of rent from 12 April 2018 down to the date on which the Applicant is able to recover possession of the Property, but the Tribunal is only able to make an order for payment of sums that have become lawfully due. Accordingly, the order is for the amount of the rent payments which fell

due up to and including 12 September 2018, the last date prior to the Case Management Discussion on which a rental payment became due. This produced a figure due of £4,500. The Tribunal did not add to that sum the unpaid deposit, as a deposit remains the property of a tenant.

### **Decision**

The Tribunal decided to grant the application and to make an Order for Payment by The Respondent to the Applicant of the sum of Four Thousand Five Hundred Pounds.

### **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.**

George Clark

**18 September 2018**

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**George Clark Legal Member/Chair**

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**Date**