

**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/23/0860

Re: Property at 3/2, 1 Canning Street, Dundee, DD3 7RZ (“the Property”)

Parties:

**Mr Shadman Khan, Mrs Lamisa Khan, 26 Menzieshill Road, Dundee, DD2 1PU;
26 Menzieshill Road, Angus, Dundee, DD2 1PU (“the Applicants”)**

Mrs Linda Etchels, 3/2, 1 Canning Street, Dundee, DD3 7RZ (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member) and Leslie Forrest (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of One Thousand One Hundred and Ninety- Eight Pounds (£1,198) to the Applicants, with interest at the rate of 6% per annum from 7 February 2024 until payment.

Background

1. The Applicant originally made an application for payment for unpaid rent due. The application was accepted by the tribunal on 24 August 2023.
2. The application and tribunal paperwork were served on the Respondent.
3. Written representations were invited from the Respondent by 23 October 2023 and were submitted on 9 October 2023.

The Case Management Discussion

4. A Case Management Discussion (CMD) took place on 8 November 2023. The Applicants were represented by Mr Campbell, solicitor and the Respondent by Mr Marshall, solicitor.

5. The various matters in dispute between the Parties was discussed and it was identified that the paperwork for each element required to be formulated into claims and the case was continued for further procedure.

The Hearing

1. A Hearing took place on 7 February 2024. The Hearing commenced around 10.30 as there had been difficulties for one Party joining the call and other technical and procedural matters to attend to. When the Hearing commenced, the Applicants were represented by Mr Campbell, solicitor and the Respondent by Mr Marshall, solicitor. The Respondent was also on the call. Two witnesses were on standby, one for each Party. Mr Bryce for the Applicants and Mr Etchels for the Respondent.
2. The Hearing proceeded with a discussion on preliminary matters, and this took place out with the presence of the witnesses.

Findings in Fact

- I. The Applicant is the registered landlord for the Property.
- II. The Parties entered into an assured tenancy agreement for the Property which was signed on 27 November 2017.
- III. The date of entry was 1 November 2017.
- IV. The tenancy is ongoing.
- V. The contractual rent is £450 per calendar month.
- VI. The unpaid contractual rent due and owing by the Respondent to the Applicants is £1,198. This reflects the accrued arrears around the monthly shortfall of rent due.
- VII. The shortfall of rent per month currently is £86 which is difference between the monthly rent of £450 and the housing benefit paid of £364.
- VIII. An Order for payment of £1,198 is granted, with interest at 6% per annum from 7 February 2024 until payment.
- IX. No other claims were insisted upon by the Parties.

Reasons for decision

1. The action for payment has evolved from when the application was made to the date of the Hearing. Whilst initially a standard payment application for rent arrears, the sum sought was varied to account for a large discretionary housing benefit payment that had been secured and credited to the rent account. The Respondent continues to receive housing benefit, but this does not cover the whole monthly rent charge and the shortfall (which was calculated and agreed by the Parties Representatives) is £86 per month, based on the current level of benefit.
2. The Parties had also introduced other disputed claims in this application. There had been additional paperwork and representations dealing with those matters which related to -
 - (a) A replacement front door that had been installed in the Property. This had been installed following on from an incident when the fire service had broken down the door to allow access as the Respondent had lost

her keys. Behind that, a Repairing Standard Order had been made by a separate tribunal and this included a requirement to replace the front door to the Property. The facts were in issue and liability was disputed.

- (b) A claim for compensation for alleged damage to a sofa belonging to the Respondent where it was claimed that it had been paint damaged whilst redecoration works had been carried out by a tradesman employed by the Applicants. The facts were in issue and liability was disputed.

Had the witness evidence been led today, those matters would have been canvassed.

3. The preliminary discussion at the Hearing resulted in settlement proposals being discussed. The Parties Representatives reached an agreed position. It was agreed an Order be made for payment by the Respondent to the Applicants of £1,198 for the rent arrears due to the most recent month's rent. Interest was agreed in addition at 6% per annum from today's date until payment. The Respondent herself offered a voluntary payment arrangement of £10 towards paying the sum owed. If this was paid the arrangement would be acceptable to the Applicants. Mr Marshall was hopeful that a further discretionary housing benefit payment may be made to clear the arrears. The Parties agreed that neither would take any further steps to pursue any claims in relation to the matters detailed in a) and b) above in the spirit of compromise. This then drew a line under the disputed monetary claims made in this application and associated matters. On that basis and the tribunal being satisfied that the figures were correct based on the paperwork and submissions an Order is made, with interest.
4. The tribunal observes that there is a separate tribunal case under reference FTS/HPC/RT/22/1795 involving the Parties.
5. The tribunal indicated that it would also be in the interests of the Parties to find a way forward to avoid the possibility of any new shortfalls of rent and to have regard generally to the affordability of this rented Property for the Respondent. Mr Marshall is best placed to advise the Respondent on those matters.

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.

S. Christie

Legal Member/Chair

7 February 2024
Date