



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

Chamber Ref: FTS/HPC/CV/23/1542

Re: Property at 1 F3, 9 Wardlaw Place, Edinburgh, EH11 1UA (“the Property”)

Parties:

Noemi Glita, Matthew Woodley, 8 Chesser Grove, Edinburgh, EH14 1SZ (“the Applicants”)

Panchali Ray, whose present address is unknown (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. This was an application by the Applicants for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for repayment of rent overpaid in the last month of their Tenancy. The tenancy in question was a Private Residential Tenancy (“PRT”) of the Property by the Respondent to the Applicants commencing on 1 August 2020. The Tenancy came to an end by agreement between the Applicants and the Respondent’s agent on 18 December 2022.
2. The application was dated 11 May 2023 and lodged with the Tribunal on that date. The application relied upon evidence that:
 - a) rent was due of £600 per month, payable on the 1st of each month,
 - b) rent of £600 was paid by the Applicants (from a bank account in the name of the first Applicant) on 1 December 2022,

- c) after which the Applicants agreed a voluntary end date for the PRT of 18 December 2022,
 - d) thus incurring an entitlement to a refund of overpaid rent.
- The Applicants calculated the overpaid rent to be £256.43 on the basis of pro-rating the 13 remaining days of December 2022 against the annual rent.

The Case Management Discussion

3. On 26 January 2024 at 14:00, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote conference call, there was appearance by the Applicants only. They confirmed that they insisted on their application. The second Applicant provided oral submissions on their joint behalf.
4. The Applicants confirmed that they had never had any contact with the Respondent, and had only ever had contact with the Respondent’s agent, Dr H Reza of Crownmere Ltd. I noted that the address for the Respondent in the Tenancy Agreement was the same address as given for the letting agents, Crownmere Ltd, being 21-23 Hill Street, Edinburgh. The Applicants explained that they had been told that the Respondent lived abroad, but that she wanted to return to live at the Property. This is what prompted their agreement to find new accommodation and leave the Property. To their knowledge, however, the Property was not then reoccupied after they left. They thus lacked a current address for the Respondent or any direct contact details. A Sheriff Officer acting for the Tribunal had sought to intimate an earlier (now discharged) CMD date but the address was found to be a suite hotel and the hotel said they had no knowledge of the Respondent. The Applicants confirmed they had no other address and service was then undertaken by the Tribunal by advertisement. The clerk confirmed no contact had been received from the Respondent and that service by advertisement had been carried out in normal fashion.
5. Having waited until after 14:05 to commence the CMD, I was satisfied to consider the application in the Respondent’s absence. (The Respondent nor anyone on her behalf attempted to call into the teleconference by the time of its conclusion.)
6. I took the Applicants through the application papers and sought some further information. The Applicants confirmed that after vacating the Property an issue was raised about return of their deposit but that was resolved in full through a tenancy deposit adjudication. I further noted an email from the Respondent’s agent, Dr H Reza of Crownmere Ltd, confirming that the deposit “from 19th December to 31st December” would be returned. The Applicants submitted that it was still outstanding. I noted the Applicants’ arithmetic which, if based on pro-rating an annual rent of £7,200, was accurate.
7. No motion was made for expenses. The application did not seek interest but the Applicants made a motion at the CMD for interest at 8% to be awarded.

Findings in Fact

8. The Respondent let the Property to the Applicants under a Private Residential Tenancy dated 20 July 2020 commencing on 1 August 2020 (“the Tenancy”).
9. The Tenancy Agreement at clause 8 required the Applicants to make payment of rent at the rate of £600 per month in advance on the 1st of each month.
10. In or around December 2022, the Applicants and the Respondent’s agent were arranging for the Applicants to vacate the Property voluntarily.
11. As at 1 December 2022, the end date of the Tenancy was not yet agreed between the parties.
12. The Applicants paid rent for 1 to 31 December 2022 in the amount of £600 on 1 December 2022 by bank transfer.
13. On or about 15 December 2022, the Applicants agreed with the Respondent’s agent that they would vacate the Property, and the Tenancy would end, on 18 December 2022.
14. The Applicants vacated the Property as agreed on 18 December 2022 on which day the Tenancy duly ended by agreement.
15. The Applicants overpaid rent for December 2022 in the amount of £256.43 being the pro-rated rent for the period 19 to 31 December 2022.
16. The Applicants have not yet been repaid the overpaid rent of £256.43 from the Respondent nor anyone on her behalf.

Reasons for Decision

17. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. In light of the submissions by the Applicants, and the absence of any appearance by the Respondent to contradict the submissions provided, I was satisfied both that the necessary level of evidence had been provided through the application and orally at the CMD, and that it was appropriate to make a decision on the application.
18. I was satisfied to accept the submissions of the Applicants as factually well-founded, but in any event there was no contradiction being made by the Respondent. Therefore, I see no grounds to doubt the payment of the rent for December 2022, that a sum is due back to the Applicants for the period 19 to 31 December 2022, that the pro-rated amount due to them is £256.43, and that they are yet to be repaid that sum.
19. In the circumstances, I am awarding payment of the sum sought and shall apply interest on the sum under Procedure Rule 41A at 8% per annum from the date of Decision as an appropriate rate.

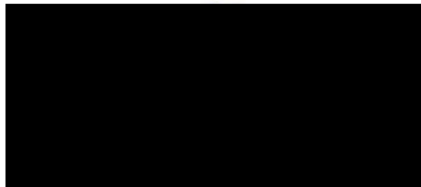
20. I noted during my consideration of the papers that there was no current registration for any letting agent under the name Crownmere Ltd, yet a company of that name (of which an H Reza seemed connected per information on Companies House), remained a current company under company number SC509934 and remained having its registered office at the address which Sheriff Officers have found to be a hotel. I was not able to confirm whether Crownmere Ltd currently provides any letting agency services, but I would request that the Tribunal clerk send a copy of this Decision to the Scottish Government for their information in regard to whether Crownmere Ltd should be registered as letting agents or any other appropriate steps.

Decision

21. I am satisfied to grant an order against the Respondent for payment of the sum of £256.43 to the Applicants with interest at 8% per annum running from today's date.

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.



26 January 2024

Legal Member/Chair

Date