



**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/24/0442

**Re: Property at 92 Eider Grove, Greenhills, East Kilbride, Glasgow, G75 8UB
("the Property")**

Parties:

**Fraser Perratt, South Cathkin Farm, Rutherglen, Glasgow, G73 5RG ("the
Applicant")**

Jamie Strachan, whose current whereabouts are 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**

1. This is an application by the Applicant for civil proceedings in relation to an assured tenancy in terms of rule 70 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended ("the Rules"), namely an order for payment of rent arrears. The tenancy in question was an Assured Tenancy (said to be a Short Assured Tenancy) of the Property by the Applicant to the Respondent dated 19 July 2017.
2. The application was dated 26 January 2024 and lodged with the Tribunal the same day. The application sought an order for £6,795.10, said to be rent due to the date of termination of the Tenancy of 1 October 2021. A rent statement lodged with the application showed the arrears developing from 1 April 2019, with the majority arising in 2021, from shortfalls and missed payments. The rent was said to be £650 a month. The rent statement lodged with the application showed rent arising on the 1st of each month. The Tenancy Agreement lodged with the application showed rent was due of £650 per month but that it was due

on the 19th of each month. (I was addressed on this point during the case management discussion (“CMD”).)

The Hearing

3. On 9 July 2024 at 10:00, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, I was addressed by the Applicant.
4. There was no appearance by the Respondent. The Applicant stated that no contact had been received from the Respondent. The Respondent had received Service by Advertisement for this CMD. The clerk confirmed there was no contact from the Respondent, and I was provided with certification of the Service by Advertisement which appeared in order. In the circumstances, having waited until 10:05 to start to CMD, I was satisfied to proceed in the absence of the Respondent. (There was no attempt by the Respondent to dial in, or anyone on his behalf to dial in, by the conclusion of the CMD.)
5. The Applicant confirmed that the application for payment was still insisted upon in the amount of £6,795.10. I sought clarification on two points:

- That the rent statement showed rent due on the 1st of each month, but the Tenancy Agreement referred to rent due on the 19th of each month.

The Applicant explained that prior to April 2019 (ie prior to the arrears developing), the Respondent requested that rent be paid on the 1st of each month, so as to better coincide with his own pay date. The Applicant agreed to this and a pro-rated payment was made at some point so as to bring the payment schedule into line with £650 due on the 1st of each month.

- That the rent statement showed rent due for 1 October 2021 of £587 which was said to be a pro-rated payment for the part month of 1 October 2021. The rent statement, and the application, both stated that the Tenancy terminated on 1 October 2021. I questioned why the pro-rated amount was not restricted to the single day of 1 October 2021 (which I calculated as £21.37).

On this, the Applicant requested a brief adjournment to speak with his letting agent. After recommencing the CMD, the Applicant said that he understood that the figure of £587 was for a pro-rated amount to late October 2021 when the Tenancy ended. On that, I asked for an explanation of the inconsistency with the application and the application papers which said that the Tenancy terminated on 1 October 2021 and contained no documents to the contrary. The Applicant considered the position and conceded that the Tenancy did terminate on 1 October 2021 and so the correct pro-rated amount for October 2021 was £21.37.

6. During the CMD discussion, the Applicant made reference to a deposit being held. I could see no reference to a deposit in the application papers, and in

particular saw no reference to one in the Tenancy Agreement or rent statement. During the adjournment (referred to above), the Applicant sought further information from his letting agent and thereafter received an update by text after the CMD recommenced. He conceded that a deposit of £650 had been held and had been uplifted and retained by the Applicant. The Applicant conceded that the arrears should be reduced by £650 in respect of the deposit funds.

7. During the CMD, I read the terms of the relevant Rules regarding interest and expenses to the Applicant and he confirmed that no motion was made in respect of either.

Findings in Fact

8. On 19 July 2017, the Applicant let the Property to the Respondent by lease with a start date of 19 July 2017 for an initial period of six months (“the Tenancy”).
9. Under the Tenancy, the Respondent was to make payment of £650 per month in rent in advance to the Applicant on or before the 19th of each month.
10. Prior to April 2019, the Respondent requested the rent payment date be altered to the 1st of the month, and the Applicant agreed to same.
11. The Tenancy concluded on 1 October 2021.
12. As of 1 October 2021, there was unpaid rent of £6,229.37 due by the Respondent to the Applicant in terms of the Tenancy in respect of shortfalls in payment, and wholly missed rent payments, for the period 1 April 2019 to 30 September 2021 plus unpaid pro-rated rent of £21.37 due for 1 October 2021.
13. After the termination of the Tenancy, the Applicant uplifted and applied a deposit payment of £650, reducing the balance of arrears to £5,579.37.
14. On or about 26 January 2024, the Applicant raised proceedings for an order for outstanding rent due to conclusion of the Tenancy in the incorrect sum of £6,795.10.
15. The balance of rent due by the Respondent to the Applicant as at 9 July 2024 remains £5,579.37.
16. The Respondent has received intimation of the CMD through Service by Advertisement.
17. The Respondent provided no evidence of payment of any part of the said unpaid rent due to 7 July 2024 of £5,579.37.

Reasons for Decision

18. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. I was satisfied, on the basis of the application and supporting papers, that rent arrears of £6,208 were due up to the end of September 2021. The two issues for consideration were what rent was due for the part-month of October 2021 (that is, only 1 October 2021) and whether any deduction was due in respect of deposit uplifted. I was satisfied that the concessions by the Applicant were well made: that £21.37 was due for 1 October 2021; and that £650 fell to be deducted from the arrears. This left a balance due of £5,579.37 which I was satisfied was well-evidenced, and I was further satisfied that this amount was outstanding at the date of the CMD.
19. In all the circumstances, I was thus satisfied that the necessary level of evidence for such civil proceedings on the sum of £5,579.37 had been provided and no defence or dispute was made by the Respondent against this figure.
20. The 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 and I was satisfied to make a decision at the CMD to award the sum of £5,579.37 against the Respondent.
21. I noted that this sum related to rent due to conclusion of the Tenancy of 1 October 2021 and no other claim under the lease against the Respondent.

Decision

22. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of the sum of £5,579.37 to the Applicant.

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.

Joel Conn



Legal Member/Chair

9 July 2024

Date