



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“2016 Act”)

Chamber Ref: FTS/HPC/CV/24/0833

Re: 49 2/1 Lyon Street, Dundee, DD4 6RA (“the Property”)

Parties:

Mrs Pervin Maleque, 3C Westgrove Avenue, Dundee, DD2 1LN (“the Applicant”)

Mr Quesmatullah Taskin and Ms Rafia Haidari, both of 49 2/1 Lyon Street, Dundee, DD4 6RA (jointly and severally “the Respondents”)

Tribunal Members:

Pamela Woodman (Legal Member) and Ahsan Khan (Ordinary Member)

Present:

The case management discussion took place at 10am on Monday 26 August 2024 by teleconference call (“**the CMD**”). The Applicant was not present but was represented by Mr Greg Gardiner of Easylets Limited, supported by Mrs Chantelle Gunn of Easylets Limited. Both of the Respondents were present. The clerk to the Tribunal was Leo Capocci. This case was conjoined with the case with reference FTS/HPC/EV/24/0832.

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £2,040 be granted against the Respondents (jointly and severally).

BACKGROUND

1. An application had been made to the Tribunal under section 71(1) of the 2016 Act and in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“HPC Rules”) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in

terms of rule 111 (*Application for civil proceedings in relation to a private residential tenancy*) of the HPC Rules.

2. The order sought from the Tribunal was an order for payment of £2,192.
3. The application form was dated 20 February 2024 and copies of various documents were provided, including:
 - a. the private residential tenancy agreement between the Applicant and the Respondents dated 5 December 2022 ("**Tenancy Agreement**").
 - b. rent account covering the period from 6 December 2022 to 5 February 2024 and which showed arrears of rent as at 5 February 2024 of £2,192 ("**Original Rent Statement**").
4. A notice of acceptance of the application was issued dated 19 March 2024 under rule 9 of the HPC Rules, confirming that the application paperwork had been received between 20 February and 2 April 2024.
5. The Respondents were sent notice of the CMD by letter dated 24 July 2024, which was confirmed (in the certificates of intimation from Roger Ewen of Walker Love, sheriff officers) as having been served on each of the Respondents by posting through the letterbox on 25 July 2024.
6. The Respondents had provided written representations by e-mail from the second Respondent dated 14 August 2024.
7. The Applicant's representatives had sought to provide an updated rent account covering the period from 6 December 2022 to 1 August 2024, which showed rent arrears of £2,904 as at 1 August 2024 ("**Updated Rent Statement**"). This was sent to the Tribunal's administration team on 20 August 2024. They also provided a copy of the rent increase notice which proposed a rent increase from £420 per month to £432 per month from 1 February 2024.
8. This decision arises out of the CMD.

PROCEEDINGS, NAMELY THE CMD

9. The Tribunal noted that the Updated Rent Statement had been provided less than 14 days before the date of the CMD and so the amount claimed could not be increased for consideration at this CMD. However, it was noted that the payments which the second Respondent had confirmed to have been made in her e-mail of 14 August 2024 had been reflected in the Updated Rent Statement.
10. Both Respondents confirmed that they believed that the Original Rent Statement was accurate and that there were arrears of £2,192 as at 5 February 2024.
11. The second Respondent noted that she had moved out of the Property between October 2023 and January 2024 and that she returned to the Property in February

2024. The Respondents confirmed that no change was made to the Tenancy Agreement to reflect this.

12. Mr Gardiner noted that the Property had been let under the same Tenancy Agreement since 2022, that it was a joint tenancy and, if the second Respondent had moved out for a time, this was not reflected in the Tenancy Agreement.

13. The first Respondent confirmed that the rent increase notice had been received.

14. Mr Gardiner confirmed that payments had been made in the last week and the current amount of arrears as at the date of the CMD was £2,040. The second Respondent confirmed that this was accurate.

FINDING IN FACT

15. The Tenancy Agreement stated that:

- a. the start date was 1 December 2022;
- b. rent was payable at a rate of £420 per month, on or before the 1st of the month;
- c. a rent deposit of £470 was to be paid;
- d. notices to be served under the Tenancy Agreement may be served using the email addresses set out in the Tenancy Agreement.

16. The rent increase notice stated that the rent from 1 February 2023 was to increase from £420 to £432 per month.

17. The Tribunal was satisfied, on the balance of probabilities, that there had been rent arrears as at 5 February 2024 of £2,192 but that, as of the date of the CMD, the rent arrears were lower and were instead now £2,040.

18. The Tribunal noted that the Respondents were jointly and severally liable for the rent payable under the Tenancy Agreement for the whole period of the tenancy, notwithstanding that one of the Respondents was not in occupation for the entire period.

REASON FOR DECISION

19. The Tribunal was satisfied, on the balance of probabilities, that the amount of £2,040 was due and payable by the Respondents to the Applicant, in respect of the rent payable up to and including 31 August 2024.

DECISION

20. The Tribunal granted an order for payment in the sum of £2,040 (two thousand and forty pounds sterling).

Right of Appeal

In terms of Section 46 of the Tribunals (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.

P Woodman

26 August 2024

Chair

Date