



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act
1988**

Chamber Ref: FTS/HPC/CV/24/1943

**Re: Property at 7A Roxburgh Street, Galashiels, Scottish Borders, TD1 1PB ("the
Property")**

Parties:

**Mr Daniel Duncan and Mrs Sandra Duncan, 4 Durham Square, Edinburgh, EH15 1PS
("the Applicant")**

**Mr Volkan Kutluol, formerly residing at 7A Roxburgh Street, Galashiels, Scottish
Borders, TD1 1PB and whose present whereabouts are unknown ("the
Respondent")**

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision (in absence of the Respondent)

A Case Management Discussion ("CMD") took place by telephone conference on 19 September 2024. The Applicants were not in attendance at the CMD but were represented by Ms Brechany of TC Young, Solicitors, Glasgow. The Respondent was neither present nor represented.

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

Prior to the CMD the Tribunal had received from the Applicant's representative the following:-

- i. Email dated 23 August 2024 with Second Inventory of Productions; and
- ii. Email dated 18 September 2024 with Third Inventory of Productions.

Prior to the CMD the Tribunal had also received an application for a Time to Pay Direction from the Respondent dated 5 September 2024.

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that:-**

The Tribunal noted the following background:-

- i. The Applicants are the heritable proprietors of the Property.
- ii. The Property was previously leased to the Respondent in terms of a Short Assured Tenancy Agreement ("the SAT") that commenced on 12 February 2017. The term of the SAT was initially agreed to be until 12 February 2018.
- iii. Rent payable in terms of the SAT was agreed to be £550 per calendar month.
- iv. A deposit of £634.60 was also paid in terms of the SAT.
- v. The Applicants seek a payment order.

The CMD

At the CMD Ms Brechany for the Applicants made the following additional oral representations:-

- i. The Respondent has removed from the Property and keys were returned on 12 September 2024.
- ii. The Respondent's present whereabouts are not known.
- iii. The arrears balance to the end of the SAT on 12 September 2024 is £11,865.19 which allows for the Applicants having made a claim on the deposit of £634.60 and assumes that amount will be received and offset against the arrears.
- iv. The amount due in terms of the application is £10,632.80. However, by email dated 23 August 2024 the Applicants sought to amend the sum claimed to £12,282.80 in terms of Rule 14A of the Rules. That amendment should be granted then the sum claimed reduced to £11,865.19.
- v. There is an interest provision in the SAT, Clause 19.2. Interest is sought on the rent arrears at the rate of 8% per annum per Clause 19.2.

Findings in Fact

The Tribunal made the following findings in fact:-

- vi. The Applicants are the heritable proprietors of the Property.
- vii. The Property was previously leased to the Respondent in terms of a Short Assured Tenancy Agreement ("the SAT") that commenced on 12 February 2017. The term of the SAT was initially agreed to be until 12 February 2018.
- viii. Rent payable in terms of the SAT was agreed to be £550 per calendar month.
- ix. A deposit of £634.60 was also paid in terms of the SAT.
- x. The Respondent has removed from the Property and keys were returned on 12 September 2024.
- xi. The Respondent's present whereabouts are not known.
- xii. The arrears balance to the end of the SAT on 12 September 2024 is £11,865.19 which allows for the Applicants having made a claim on the deposit of £634.60 and assumes that amount will be received and offset against the arrears.
- xiii. There is an interest provision in the SAT, Clause 19.2 which provides for interest on rent arrears at the rate of 8% per annum.

Reasons for Decision

The Respondent did not attend the CMD. The factual background narrated by the Applicants within the application papers and orally by Ms Brechany at the CMD was not challenged and was accepted by the Tribunal.

In his application for a Time to Pay Direction dated 5 September 2024 the Respondent admits liability for the Applicants' claim. He seeks a Time to Pay Order in a sum of £150 per month.

By email dated 25 October 2024 the Applicants' representative confirmed the instalment arrangement offered by the Respondent is unopposed.

The Tribunal determined that the arrears of rent due are £11,865.19.

The Tribunal therefore granted the Applicants' application dated 23 August 2023 to amend the sum claimed to £12,282.80 in terms of Rule 14A of the Rules and thereafter made an order for payment of £11,865.19 with interest on that amount from the date of the decision at 8% per annum.

The Tribunal also granted the Respondent's application for a Time to Pay Direction and ordered the sums due to the Applicants to be paid by monthly instalments of £150 with the first payment being due 7 days after intimation of the payment order.

Decision

The Tribunal granted the Applicants' application dated 23 August 2024 to amend the sum claimed to £12,282.80 in terms of Rule 14A of the Rules and thereafter made an order for payment of £11,865.19 with interest on that amount from the date of the decision at 8% per annum.

The Tribunal also granted the Respondent's application for a Time to Pay Direction and ordered the sums due to the Applicants to be paid by monthly instalments of £150 with the first payment being due 7 days after intimation of the payment order.

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.

G. Buchanan

Legal Member/Chair

19 November 2024
Date