



**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/24/2118

Re: Property at Flat 2/2, 112 Calder Street, Glasgow, G42 7RB (“the Property”)

Parties:

Daytona Avante Ltd, Javid House, 115 Bath Street, Glasgow, G2 2SZ (“the Applicants”)

Mr Michael Freeman, Flat 2/2, 112 Calder Street, Glasgow, G42 7RB (“the Respondent”)

Tribunal Members:

George Clark (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application could be decided without a Hearing and issued an Order for Payment requiring the Respondent to pay to the Applicants the sum of £20,950.

Background

1. By application, dated 8 May 2024, the Applicant sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicants. The sum sought was £15,950. The Applicants wished to include any further arrears down to the date of the Tribunal’s Decision.
2. The application was accompanied by a series of Rent Statements showing arrears as at the date of the application of £15,950. The Respondent had paid absolutely no rent at all since March 2022. The Applicants were unable to provide a copy of a written tenancy agreement. On 6 November 2024, the Applicants’ agents provided the Tribunal with a copy of an email of 20 September 2024 to the Respondent which referred to a meeting with him at the Property earlier in the day, at which he had told the Applicants’ representative that the rent he had agreed for the Property had been £950 per month, and updated Rent Statements amending the monthly rent due to

£950 per month, back-dating the higher level of rent due to the start of the tenancy, adjudged to be February 2020 and producing an arrears figure of £45,550. The amounts paid by the Respondent remained unchanged. On 30 January 2025, the Applicants' representatives supplied a further Rent Statement showing arrears of £48,400 at that date.

3. On 10 December 2024, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written representations by 31 December 2024. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

4. A Case Management Discussion was held by means of a telephone conference call on the morning of 4 February 2025. The Applicant was represented by Miss Joanna Simpson of 1st Lets (Glasgow) Limited. The Respondent was not present or represented.
5. The Applicants' representative told the Tribunal that no payments had been received since the date of the application. They had taken over from other letting agents. Those agents had a "guaranteed rent" contract with the Applicants, whereby the Applicants were guaranteed rental income of £500 per month, whether or not the Property was empty or occupied. The application to the Tribunal had been accompanied by a copy of this contract, which commenced on 20 January 2020. The Applicants' representatives understood that a written tenancy agreement had been drawn up but had not been signed, possibly due to the intervention of the COVID-19 lockdown. The only records they had to go on were their clients' actual receipts, which were as set out in the Rent Statements. They stated that it was clear that the rent charged to the Respondent would have been higher than £500 per month (to enable the previous agents to make a profit), but that there is no evidence of its being £950 per month apart from an unsolicited remark by the Respondent at the meeting of 20 September 2024 that this was the figure he had agreed to pay when he moved in in February 2020.
6. The Applicants' representative told the Tribunal that, should the Tribunal be unwilling to accept that the rent was £950 per month, the Applicants were content to restrict their right to recover rent to £500 per month, as this could be evidenced from the payments actually received by the Applicants.

Reasons for Decision

7. Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

8. The Tribunal was satisfied from the Rent Statements that a tenancy began in February 2020 and that the monthly rent due thereunder by the Respondent was not less than £500. The Tribunal was not able to accept the email of 20 September 2024 as constituting an admission by the Respondent that the rent he agreed to pay was £950 per month. Working on the basis of £500 per month, the arrears at the date of the application had been £15,950 and were now £20,950. The Tribunal was satisfied that this sum has become lawfully due by the Respondent to the Applicants.
9. The Tribunal's Decision was unanimous.

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.

George Clark

Legal Member/Chair

4 February 2025
Date