



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

Chamber Ref: FTS/HPC/EV/24/2586

Re: Property at 27/10 Hawthornbank Lane, Edinburgh, Midlothian, EH4 3BH (“the Property”)

Parties:

Mr Ross Mackay, 31 Keppel Bay View, 04-92, 098418, Singapore (“the Applicant”)

Mrs Sheryl Ashton, Mr Thomas Ashton, 27/10 Hawthornbank Lane, Edinburgh, Midlothian, EH4 3BH (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £18,729.64 should be granted against the Respondents in favour of the Applicant.

Background

1. The Applicant lodged an application for a payment order in relation to unpaid rent. A tenancy agreement and rent statement were lodged with the application. A related application for an eviction order was also submitted.
2. A copy of the application was served on the Respondents by Sheriff Officer and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 15 April 2025 at 10am and that they were required to participate. Prior to the CMD, the Applicant lodged an updated rent statement, a request to amend the application to reflect the increased arrears of rent and a copy of email correspondence with the Respondents.

3. The CMD took place on 15 April 2025. The Applicant was represented by Mr Logan, Portfolio Manager, with the letting agent, Rettie & co. The Respondents did not participate.

Summary of Discussion at CMD

4. Mr Logan told the Tribunal that the Respondents are still in occupation of the property. The arrears have increased to £20,529 64 as a further payment was due on 11 April 2025. However, they are now receiving Housing Benefit payments directly from the Local Authority and a payment is due shortly. This will reduce the arrears to the sum specified in the updated statement - £18,729.64. The only payments being received are from the Local Authority and Mr Logan understands that the Council are investigating the Respondents, as they were previously receiving benefit payments and not passing these on to the Applicant.
5. Mr Logan said that he believes that the Respondents reside at the property with two adult children. He has no information about the ages of the children or the family circumstances. He is not aware of any health issues, disabilities or current employment status. However, he is aware that the Respondents incurred arrears of rent at their previous property. In addition, it would appear that the tenancy reference they provided was not genuine as he has been in touch with the previous agent. In addition to the arrears of rent, there have been complaints of antisocial behaviour from other residents and allegations of theft and fraud. On 5 February 2025 he was contacted by the Police to come to the property and secure it. The Police had forced entry and arrested the Respondents in connection with a criminal offence. The Respondents have also failed to provide access to the letting agent and contractors and have a dog at the property without permission.
6. Mr Logan told the Tribunal that the Applicant has two other rental properties. The rent arrears are substantial and have caused him some difficulty in meeting financial obligations associated with the property. He also has concerns about the Respondents' conduct during the tenancy and has indicated that he might sell it when he recovers possession.

Findings in Fact

7. The Applicant is the owner and landlord of the property.
8. The Respondents are the tenants of the property in terms of a private residential tenancy agreement.
9. The Respondents are due to pay rent at the rate of £1800 per month.

10. The Respondents have been in arrears of rent since February 2024. The only payments made to the rent account since June 2024 have been direct payments of housing benefit made by the Local Authority. The Respondents previously failed to pass on housing benefit received by them to the Applicant.

11. The Respondents currently owe the sum of £18,729.64 in unpaid rent.

Reasons for Decision

12. Based on the documents submitted with the application and the information provided at the CMD, the Tribunal is satisfied that the Respondents owe the sum of £18,729.64 in unpaid rent and that the Applicant is entitled to a payment order for this sum

Decision

13. The Tribunal determines that a payment order should be granted against the Respondents.

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.

Josephine Bonnar

Legal Member:

Date: 15 April 2025