

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

Chamber Ref: FTS/HPC/CV/24/4660

Re: Property at Flat 2, 35 Drumbrae South, Edinburgh, EH12 8DT (“the Property”)

Parties:

Mrs Naga Alladi, 201 Kingsknowe Road North, Edinburgh, EH14 2ED (“the Applicant”)

Mr Scott Crawford Brand, Ms Samantha Tosh, UNKNOWN, UNKNOWN (“the Respondents”)

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision (in absence of the parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondents of the sum of £6543.96 should be granted in favour of the Applicant.

Background

1. An application was received from the Applicant on 6 October 2024 seeking a payment order in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for payment of £6543.93 in respect of rent arrears which were alleged to be due by the Respondents to the Applicant.
2. Attached to the application form were:

- (i) Copy rent statement showing that the Respondents owed outstanding arrears of £6543.96 as at 8 August 2024.
 - (ii) Various copy bank statements dated between 1 March and 31 August 2024.
- 3. On the same date, an application form for service by advertisement on each of the Respondents was received from the Applicant. Attached to the covering email was copy email correspondence between the Applicant and Scott and Co sheriff officers dated between 12 July and 28 August 2024.
- 4. The application was accepted on 22 January 2025.
- 5. Notice of the case management discussion (CMD) scheduled for 29 May 2025 was published by advertisement on the First-Tier Tribunal Housing and Property Chamber website on 8 March 2025. An email was sent to each of the Respondents on the same date alerting them to the application and directing them to the public notice on the Chamber's website.
- 6. Emails were received from the first Respondent on 12 March, 30 April and 8 May 2025. An email was received from the second Respondent on 9 May 2025.
- 7. The Tribunal issued a direction to the Applicant on 28 April 2025, directing her to provide by 22 May 2025:
 - 1) A copy of the private residential tenancy agreement between the parties.
 - 2) Copies of any letters or notices sent to the Respondents by the Applicant regarding the outstanding rent arrears sought in terms of the application.
 - 3) Confirmation of any sum which was returned to the Applicant in respect of rent arrears from the approved tenancy deposit scheme with which any tenancy deposit paid by the Respondents was lodged, together with evidence of this
- 8. A response to the direction was received from the Applicant on 20 May 2025.
- 9. No further written representations or time to pay application were received from either Respondent prior to the CMD.

The case management discussion

10. A CMD was held by teleconference call on 29 May 2025. The Applicant was present on the call and advised the Tribunal clerk that she was dialling in from Morocco where she was currently on holiday.
11. Neither Respondent was present or represented on the teleconference call. The Tribunal delayed the start of the CMD by 10 minutes, in case the Respondents had been detained. They did not attend the teleconference call, however, and no telephone calls or messages had been received from them.
12. The Tribunal had before it a certificate of service by advertisement. This stated that service by advertisement on the Respondent was carried out on the First-Tier Tribunal Housing and Property Chamber website between 8 March and 29 May 2025. The Tribunal was satisfied that the Respondents had been cited to attend the CMD by advertisement in terms of rule 6A of the 2017 rules, and had therefore been given lawful notice of the proceedings.
13. With regard to the Applicant, the Tribunal noted that she was calling in from overseas. The Tribunal considered the guidance for tribunals on taking of oral evidence from persons located overseas in tribunal proceedings. The Tribunal noted that the UK government is working to obtain the agreement of the Government of Morocco to allow individuals in Morocco to voluntarily give evidence by video link in UK tribunals. A request for permission to give evidence must be submitted to the Foreign, Commonwealth and Development Office in advance. As the Tribunal had not been made aware in advance of the CMD that the Applicant was overseas, and the timescales for securing permission are lengthy, it was therefore unable to hear evidence from the Applicant at the CMD.
14. Having considered the written representations submitted by the parties, the Tribunal took the view that in the circumstances, it was able to make a decision on the basis of the written evidence as: 1) having regard to such facts as were not disputed by the parties, it was able to make sufficient findings to determine the case and 2) to do so would not be contrary to the interests of the parties.
15. The Tribunal clerk therefore notified the Applicant that the Tribunal considered that it had sufficient evidence before it to make a decision on the application, without the need to hear oral evidence from her. Should she wish to give oral evidence, however, the CMD could be adjourned to a later date.
16. The Applicant confirmed that in the circumstances she was content for the Tribunal to make a decision on the basis of the written evidence before it.

17. The Tribunal therefore proceeded to make a decision on the application without a hearing in terms of rule 18 (1) (a) of the 2017 rules.

Findings in fact

18. The Tribunal made the following findings in fact:

- There was a private residential tenancy in place between the parties, which commenced on 26 June 2023.
- The rent due under the tenancy agreement was £1500 per month, payable on the 28th day of each month.
- The Respondents paid a tenancy deposit of £1500 at the start of their tenancy.
- The entire tenancy deposit was returned to the Applicant by Letting Protection Service Scotland on 16 August 2024 to cover cleaning costs and damage to the property.
- On 10 June 2024, an eviction order was granted in favour of the Applicant against the Respondents by a previous Tribunal on ground 12 (rent arrears).
- On the same date, a payment order for £10,100 was granted in favour of the Applicant against the Respondents in respect of rent arrears accrued up until 28 February 2024.
- The Respondents were evicted from the property on 8 August 2024.
- The rent arrears due for the period from 29 February 2024 to 8 August 2024 totalled £6543.96.
- As at the date of the CMD, the Respondents owed the Applicant £6543.96 in rent arrears.

Reasons for decision

19. No written representations had been received from the Respondents which indicated that they wished to oppose the application. Neither Respondent had made an application for a time to pay direction.

20. On the basis of all the evidence before it, the Tribunal was satisfied that the Respondents owed £6543.96 in rent arrears to the Applicant as at the date of the CMD.

Decision

The Tribunal grants an order for payment by the Respondents to the Applicant of the sum of £6543.96.

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.

S O'Neill

29 May 2025

Legal Member/Chair

Date