

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/CV/19/0117

Re: Flat 2/1, 427 Hawthorn Street, Glasgow, G22 6EN (“the property”)

Parties:

Angel Investments (Scotland) Ltd, 24 Fairley Street, Glasgow G51 2SN (“the applicants”)

Ms Carol Bridges, Flat 2/1, 427 Hawthorn Street, Glasgow, G22 6EN (“the respondent”)

Tribunal Member:

Adrian Stalker (Legal Member)

Decision (in absence of the respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum sought by the applicants, as rent arrears, of £5,194.96, was lawfully due from by the respondent, and granted an order for payment of that sum, by the respondent, to the applicants.

Background

1. In November 2016, the applicants let the property to the respondent, under a short assured tenancy. The parties entered into a written tenancy agreement. This states, in clause 1, that the tenancy is to run “for a period of 6 months that is from 14/11/2016 to 13/05/2017 and thereafter for periods of one month at a time until terminated in accordance with clause 11 hereof, or any other due process of law.” The parties signed the tenancy agreement on 14 November 2016. The agreed rent, under clause 3, was £375 per month.

2. By applications dated 11 January 2019, the Applicant sought an order for recovery of possession under section 33 of the Housing (Scotland) Act 1988 (“the Act”), and

an order for payment of £4,692.64, being rent arrears. The application under section 33 is FTS/HPC/EV/19/0103. Reference is made the Tribunal's decision in relation to that case, also dated 11 March 2019.

3. On 28 January 2019, notice of acceptance was granted by a legal member. A Case Management Discussion ("CMD") was fixed.

The CMD

4. The CMD took place at 2pm on 11 March 2019, at the Glasgow Tribunals Centre, Room 112, 20 York Street, Glasgow. Miss Caldwell, solicitor, of Messrs TC Young, agents for the applicants, appeared on their behalf. The respondent did not appear, and was not represented. She had not made any representations to the Tribunal, in advance of the CMD.

5. Under rule 17(4) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. Miss Caldwell asked the Tribunal to grant an order for payment against the respondent in favour of the applicants.

Findings in fact, and in fact and law; reasons for decision

6. The Tribunal was provided with an up to date copy of a rent account prepared by Harveys Property Management, 24 Fairley Street, Glasgow. This indicated that the respondent had paid the rent till the beginning of November 2017. After 8 November 2017, no payments were made until 13 April 2018, when housing benefit payments commenced, by which time the arrears stood at £1,875. However, the four weekly housing benefit payments fell well short of the monthly rent. Consequently, the arrears have continued to accumulate.

7. Miss Caldwell sought an order in an amount that took account credits and debits on the account, since the date of lodging of the application. This is consistent with the order sought in the application, at 5(c): "We request that the Tribunal order the respondent to pay the sum of £4,692.64 to the applicant along with any further sums due from 7 January 2019 to the date an order is made." As notice was given to the respondent, in the application, that an order for payment would be sought in the amount due as at the date of the order, the Tribunal was prepared to grant same.

8. As regards credits on the account, the Tribunal notes that, although the application states that the amount due as at 7 January 2019 was £4,692.64, the rent account indicates that a payment of £82.56 was credited to the account on 28 December 2018, which reduced the balance, on that date, to £4,610.08. Two further

payments, of the same amount, were made on 18 January and 15 February 2019. The total of these payments was £247.68.

9. As regards debits, rental payments fell due on 22 January and 22 February. The account indicates that rental payments have increased from £375 per month to £393.75. However, the Tribunal was not prepared to make debits in the increased amount, in the absence of specific intimation to the respondent that the increased rent would be sought. Miss Caldwell was content to limit both debits to £375, a total of £750.

10. Accordingly, the Tribunal was asked to granted an order for payment of £4,692.64, plus £750 (£5,442.64) less £247.68, a balance of £5,194.96. In light of the documents produced, and in the absence of any representation by the respondent to the contrary, the Tribunal was satisfied that that this sum was lawfully due.

Decision

11. The Tribunal accordingly granted an order for payment in the sum of £5,194.96.

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.

Mr Adrian Stalker

Legal Member

11/3/19.

Date