

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 Rules of Procedure 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/19/0306

Re: Property at 36 Livingston Place, Airdrie, ML6 9LG (“the Property”)

Parties:

Mr Lendrick Gillies, 132 St John's Road, Edinburgh, EH12 8AX (“the Applicant”)

Mrs Theresa Ramsey, 36 Livingston Place, Airdrie, ML6 9LG (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal” granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of THREE THOUSAND AND THIRTY NINE POUNDS AND FORTY TWO PENCE (£3,039.42) STERLING

An application was submitted to the Tribunal by the Applicant in terms of Rule 111 of the Rules. Said application sought a payment order against the Respondent in the sum of £3,039.42, in respect of rent arrears accrued under a tenancy agreement between the parties.

A Case Management Discussion (“CMD”) took place on 18 April 2019. Sam Paulo of Coulters Lettings Limited appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent.

Mr Paulo moved for the application to be granted as sought. He explained that Coulters Lettings Ltd had acquired management of the Property via a transfer of a portfolio of properties from another lettings agent. There were two rent statements lodged with the papers. The first showed arrears of rent which had accrued up to the point the Property was transferred to Coulters Lettings Ltd of £1464.42. The second showed the arrears which had accrued whilst Coulters Lettings Ltd were managing the Property, being £1575. All arrears had accrued under the same tenancy agreement, a copy of which was lodged with the application. The total rent arrears due by the Respondent were £3039.42. The Respondent had failed to respond to communications by the managing agents requesting that the Respondent pay said sums due to the Applicant.

The Tribunal noted that the application had been made under Rule 111, which rule is in relation to civil proceedings relating to a private residential tenancy. The tenancy agreement lodged with the application commenced in July 2017 and accordingly could not be a private residential tenancy, and instead appeared to be an assured tenancy. Accordingly, the correct rule under which the application should be considered would be Rule 70. The Tribunal allowed the Applicant to amend the Rule number under which the application should be considered, to Rule 70.

The Tribunal was satisfied that:

1. An assured tenancy agreement was in existence between the Applicant and Respondent
2. In terms of the said tenancy agreement, the Respondent was contractually obliged to pay a monthly rent of £525
3. The Respondent had failed to pay rent lawfully due under the tenancy agreement and had accrued arrears of rent amounting to £3,039.42.
4. The Applicant was entitled to payment of rent lawfully due under the terms of the tenancy agreement.

The First-tier Tribunal for Scotland (Housing and Property Chamber) accordingly granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of THREE THOUSAND AND THIRTY NINE POUNDS AND FORTY TWO PENCE (£3,039.42) STERLING

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.

Fiona Watson

Legal Member/Chair

Date

18/4/19.