

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 Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/0578

Re: Property at 11 Kennedar Drive (1/2), Glasgow, G51 4PX (“the property”)

Parties:

Dr Michael Coughlin and Mr Marcio Araujo, c/o DJ ALEXander Lettings Ltd, 1 Wemyss Place, Edinburgh, EH3 6DH (“the applicants”)

Mr Alister Poole (“the first named respondent”) and Ms Paula Millington (“the second named respondent”), both of 1/2 6 Hutton Drive, Glasgow, G51 4RN

Tribunal Member:

David Preston (Legal Member) (“the tribunal”)

Decision (in absence of the Respondent)

The tribunal: dismissed the application against the second named respondent; and determined that the first named respondent pay to the applicants the sum of One thousand four hundred and twenty six pounds and 57 pence (£1426.57) being arrears of rent under the Tenancy Agreement between the parties.

Background:

1. By application dated 22 February 2019 the applicants applied to the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) for an order for payment in respect of arrears of rent. The application was accompanied by a copy of the Tenancy Agreement dated 2 November 2016 and the tribunal was provided with a copy Rent Statement dated 16 June 2017.

Case Management Discussion (CMD)

2. The applicants were represented at the CMD by Ms Gill Cartwright of D.G.Alexander Lettings Ltd. Neither respondent appealed nor was represented.
3. At the outset the tribunal noted that the Tenancy Agreement between the parties did not name the second named respondent. Ms Cartwright accepted that her name had been omitted from the Tenancy Agreement and accepted that the tribunal would accordingly be unable to grant an order against her as a party to

the application and the tribunal accordingly dismissed the application against the second named respondent.

4. Ms Cartwright advised the tribunal that the respondents had vacated the property some time ago and that the sum sort in the application (£1426.57) represented the full amount of the arrears for which an order was sought.
5. The Tenancy Agreement between the parties was a Short Assured Tenancy from 2 November 2016 until 2 November 2017 and thereafter on a monthly basis until indeed by either party.
6. Tribunal was advised that the respondents had vacated the property leaving a total amount of arrears as detailed in the Rent Statement in the sum of £1776.57. The applicants had recovered the deposit of £300 from SafeDeposits Scotland and the first named respondent had made payment of a further £50 reducing the total sought to £1426.57.
7. The application sought interest as detailed in section 8.2 of the Tenancy Agreement, which was stated to be 4% above the Bank of England base rate but the application did not specify the actual rate. Ms Cartwright was unable to be specific and accordingly withdrew that aspect of the application.

Reasons for Decision:

8. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
9. The tribunal was satisfied that notice of CMD together with a full set of the pupils had been served on the respondents by Sheriff Officers on 15 April 2019. No effort had been made by them to respond to the people and they did not attend the CMD.
10. The tribunal is satisfied that the balance of arrears of rent totalling £1426.57 are due by the first named respondent to the applicants

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.

David Preston

Legal Member/Chair

7/5/19

Date