

Housing and Property Chamber
First-tier Tribunal for Scotland



STATEMENT OF DECISION: Tribunals (Scotland) Act 2006, Section 46

Chamber Ref: FTS/HPC/CV/20/0712

Re: Property at 106 Main Street, Fauldhouse, EH47 9BW ("the Property")

Parties:

Mrs Loraine Hamilton, River View, Lanark, ML11 8TJ ("the Applicant")

Miss Ann Timmins and Mr David Gunn, 106 Main Street, Fauldhouse, EH47 9BW ("the Respondents")

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision

The tribunal having considered the Applicant's application for review of the decision of the tribunal dated 18 August 2020 all in terms of section 43(2)(b) of the Tribunals (Scotland) Act 2014 and paragraph 39 of the Schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 refused the application.

Background

1. Reference is made to the determination of the tribunal dated 13 August 2020 which determined that the Applicant was entitled to an order that the Respondents jointly and severally pay to the Applicant the sum of £1,597.26. The tribunal therefore made an order against the Respondents for payment of that amount.

Applicant's Application for Review

2. The Applicant's Representative, Diane Graham of Lothian Homes, in her email dated 18 August 2020 requests that the tribunal review its determination of 13 August 2020. (The email also asks that the Tribunal review its decision in the related application, reference FTS/HPC/EV/0711.) The tribunal has therefore treated the Applicant's Representative's email as an application for review under paragraph 39 of the Schedule to The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Procedure Regulations 2017").
3. In terms of paragraph 39(2) of the Schedule to the Procedure Regulations 2017 an application for review under section 43(2)(b) of the 2014 Act must be made in writing

and must set out why a review of the decision is necessary. In terms of paragraph 39(3) of the Schedule to the Procedure Regulations 2017 if the tribunal considers the application for review to be wholly without merit the tribunal must refuse the application.

4. In the email of 18 August 2020 it is difficult to identify any grounds for review relative to the tribunal's decision in this matter. The Applicant's Representative states as follows relative to the rent arrears due by the Respondents:-

- (a) That letters and emails had been written to the Respondents and that the Applicant's Representative had tried calling the Respondents to give advice and to offer support but they failed to respond or challenge the rent arrears before the tribunal.

- (b) That the Respondents have been paid Universal Credit housing element on at least two occasions and failed to make these payments towards the rent due.

- (c) That the only reason the Universal Credit housing element is being paid to the Applicant's Representative is because two forms UC 47 had been completed to request the payments directly.

A further rent statement is also produced with the email of 18 August 2020 showing the rent arrears as at 10 August 2020.

Decision and Statement of Reasons on Application for Review

5. The tribunal has carefully considered the Applicant's application for review. However, there is nothing in the application for review that was not already taken into account by the tribunal in reaching its decision of 13 August 2020. In reaching its decision to make an order for payment of £1,597.26 the tribunal had regard to the terms of the Applicant's Representative's written and oral representations.
6. Furthermore had the Applicant or her Representative desired to have the tribunal make an order for payment of arrears in a sum different to that contained in the Application to the tribunal dated 28 February 2020 then the application ought to have been amended in terms of Rule 14A of the Schedule to the Procedure Regulations. Rule 14A(1) states:-

"(1) Where a new issue is not raised, a party may request to amend the application, including the sum claimed, by intimating the amendment to any other party and the First-tier Tribunal at least 14 days prior to a case management discussion or hearing."

That was not done. In the absence of the application having been amended in accordance with Rule 14A(1) the tribunal could only make an order for payment of the amount originally sought, namely £1,597.26 and did so.

7. On that basis the application for review of the tribunal's Statement of Decision of 13 August 2020 is wholly without merit and is refused in terms of paragraph 39(3) of the Schedule to the Procedure Regulations 2017.

Right/

Right of Appeal

- 8. A landlord, tenant or third party applicant aggrieved by the decision of the paragraph Tribunal may seek permission to appeal from the Upper Tribunal on a point of law only within 30 days of the date the decision was sent to them.**

Gillian Buchanan

Signed

Date 7 September 2020

Legal Member