



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/19/1106

**Re: Property at 16 West Hemming Street, Letham, Angus, DD8 2PU (“the
Property”)**

Parties:

**Mr Gordon Topping, Mrs Wilma Topping, Kirkland, Huntingfauld Road, Tealing,
Dundee, Angus, DD4 0QZ (“the Applicant”)**

**Mr James Pollard, Ms Vikki Spink, 16 West Hemming Street, Letham, Angus,
DD8 2PU (“the Respondent”)**

Tribunal Members:

Petra Hennig-McFatridge (Legal Member)

Decision in absence of the Respondents

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicants are entitled to a payment order for
the amount of £6,745.09.**

Background:

The application was made on 9 April 2019 and initially asked for payment of the sum of £5,638.76 in rent arrears. The Applicants asked for an amendment of the sum to £6,745.09 in an email to the Tribunal. The Applicants provided a schedule of payments made and payments due for the period of 5.12.2017 – 24.5.2019 with the application and an updated schedule of payments due from 30.11.2017 to 30.5.2019 and of payments received from 5.12.2017 to 24.5.2019 with the email of 14 June 2019 seeking to amend the application to the updated sum of arrears.

Said email of 14 June 2019 also contained a question as to whether the Applicants could add a further claim of “£1,000 for removal of rubbish, furniture etc. and damages that are over the deposit amount”.

The Tribunal received confirmation from Sheriff Officers that the application and documentation had been served on the Respondents on 21 June 2019. The Respondents had not made any representations in writing and did not attend the Case Management Discussion (CMD). The notification letter included the information to the Respondents that the Tribunal can make a decision in the absence of the Respondents.

The Tribunal was satisfied that the Respondents had received the necessary intimation of the CMD and the documentation.

The Case Management Discussion:

The Applicants advised the Tribunal that the Respondents had recently moved out without leaving a forwarding address. They had posted the keys and garage remote fob to the Applicants on 4 July 2019. Although initially the Respondents had offered to set up payments towards the arrears these offers had never materialised and no payments had been received towards the arrears after the Respondents moved out.

The Tribunal member considered the request to update the amount claimed to the arrears as stated in the email of 14 June 2019 and the request to add the additional item of £1,000 for damages and removal of rubbish. The Tribunal member considered that the Respondents had adequate notice of the increase of the arrears claimed through the schedule of payments and rent due lodged by the Applicants and allowed the amendment of the amount sought to £6,475.91.

However, the item of the additional £1,000 was an item that introduced a new issue in terms of Rule 14 of the Procedural Rules. The request had not been detailed and had not been accompanied by any details or evidence of what the sum was claimed for or vouching for the related expenses. The Tribunal member considered that the Respondents would not have had sufficient notice of the nature of the addition to the original claim and considered that the request to include this new item into the claim should not be granted. The Applicants declined the opportunity for a further CMD to lodge further information relating to the items they wished to introduce and to formally move for an amendment of the application to include these.

Findings in Fact

1. The Applicants and the Respondents had entered into a tenancy agreement commencing on 30 November 2017.
2. The amount of rent due each month was £1,000.
3. The tenancy lasted for the period of 19 months.
4. The tenancy came to an end in July 2019.
5. The amount of rent due for the entire period of the tenancy was £19,000.
6. The amount of rent paid to the Respondents for the period of the tenancy was £12,254.91 as per the update schedule of payments made.
7. The arrears of rent outstanding as at 31 July 2019 are £6,745.09

Reasons for Decision

The Tribunal make the decision on the basis of the written evidence lodged by the Applicants and the information given at the hearing by the Applicants.

In terms of Rule 17 of the Rules of Procedure:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

(c) raising with parties any issues it requires to be addressed;

(d) discussing what witnesses, documents and other evidence will be required;

(e) discussing whether or not a hearing is required; and

(f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

However, in terms of Rule 18 of the Rules of Procedure:

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,
a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

The Respondents did not make any written representations and did not attend the CMD. The Tribunal did not consider that there was any need for a hearing as the facts of the case were not disputed and the evidence was sufficient to make the relevant findings in fact to determine the case.

The sum of rent payable in terms of the schedule lodged was £19,000. The amount paid in terms of the schedule lodged was £12,254.91. The evidence shows that the Respondents have accumulated rent arrears of £6,745.09. The amount is still outstanding. Payment promises previously made have not been adhered to. The Applicants are entitled to payment by the Respondents of the sum of £6,745.09 in rent arrears.

Decision:

The Tribunal grants an order for payment of the sum of £6,745.09.

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.

Petra Hennig-McFatrige

31/07/2019

Legal Member/Chair

Date