



**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/19/1167**

**Re: Property at 5/3 Eyre Terrace, Edinburgh, EH3 5ER (“the Property”)**

**Parties:**

**Mr Duncan Smith, Mrs Joe Jo Smith, 95 Barnton Park Avenue, Edinburgh, EH4  
6HD (“the Applicants”)**

**Mr Paul McDonald, UNKNOWN, UNKNOWN (“the Respondent”)**

**Tribunal Members:**

**Lynsey MacDonald (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the  
Tribunal”) determined that an order for payment in the sum of £4,500 (four  
thousand, five hundred pounds) should be granted.**

**1. Background**

- 1.1. The Applicants lodged an application under Rule 70 (civil proceedings in an assured tenancy) seeking an order of payment in respect of rent arrears. The Application was received by the Tribunal on 15<sup>th</sup> April 2019.
- 1.2. The Applicants lodged a copy of the tenancy agreement, a rent statement, and correspondence between the Applicants and the Respondent.
- 1.3. The Applicant initially sought rent arrears in the sum of £3,750, for the period from November 2018 to 8<sup>th</sup> April 2019. The Applicants subsequently lodged a motion to amend the sum sued for to £4,500, to

include rent to 22<sup>nd</sup> May 2019, which was the date on which the Respondent vacated the property. In support of the motion the Applicants lodged a revised rent statement.

## 2. The Case Management Discussion

- 2.1. The Applicants did not attend the Case Management Discussion, but were represented by Mr Duncan Hamilton, Solicitor.
- 2.2. The Respondent did not attend the Case Management Discussion. The Tribunal had previously ordered service by advertisement in terms of Rule 6A. Service by advertisement was effected between 1<sup>st</sup> August 2019 and 19<sup>th</sup> September 2019. The Applicants confirmed that there had been no subsequent contact with the Respondent.
- 2.3. The Tribunal was satisfied that the requirements of Rule 17(2) were satisfied, namely that the Respondent had been given reasonable notice of the date, time and place of the Case Management Discussion, and that it was fair to proceed in his absence.

## 3. Findings in Fact

- 3.1. The Applicants entered into a tenancy agreement with the Respondent on 23<sup>rd</sup> February 2017. The tenancy was due to end on 22<sup>nd</sup> August 2017, but allowed for monthly continuation.
- 3.2. The tenancy was a short assured tenancy agreement.
- 3.3. The rent payable by the Respondent to the Applicants was £750 per calendar month. The rent was payable in advance.
- 3.4. Until October 2018, the Respondent paid all of the rent which was due, albeit it was not always paid at the correct time. The final rent payment was made on 23<sup>rd</sup> November 2018, in respect of rent due on 23<sup>rd</sup> October 2018.
- 3.5. The Respondent made no further rent payments.
- 3.6. The tenancy agreement ended on 22<sup>nd</sup> May 2019 and the Respondent vacated the property on that date.
- 3.7. On 22<sup>nd</sup> May 2019 the sum of £4,500 in respect of rent arrears was outstanding.

#### 4. Reasons for Decision

- 4.1. The Tribunal proceeded on the basis of the written documents which had previously been lodged by the Applicant, together with submissions in respect of those documents.
- 4.2. There was nothing before the Tribunal challenging or disputing any of the evidence before it.
- 4.3. In terms of the tenancy agreement between the parties, the sum of £750 per calendar month was due to be paid by the Respondent to the Applicants.
- 4.4. The Applicants had attempted to resolve the issue of late payment of rent directly with the Respondent. On 23<sup>rd</sup> January 2019, the Respondent acknowledged that he was in rent arrears. The Respondent's continued failure to pay the rent arrears resulted in termination of the tenancy agreement by the Applicant.
- 4.5. The Respondent was liable to the Applicant for payment of rent until the time at which he vacated the property. At that time the outstanding sum was £4,500.

#### 5. Decision

- 5.1. The motion to amend the sum sued for to £4,500 is granted.
- 5.2. The order for payment in the sum of £4,500 is granted.

#### **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.**

Lynsey MacDonald  
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**Legal Member/Chair**

19/09/19  
\_\_\_\_\_  
**Date**