

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 16 of the Housing (Scotland) Act 2014 ('the Act') and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ('the Rules')

Chamber Ref: FTS/HPC/CV/19/1273

Re: Property at Flat 1, 79 Lancefield Quay, Glasgow G3 8HA ('the Property')

PARTIES:

Mr Raghbir Panesar, 39 Westerton Way, Bearsden, East Dunbartonshire G61 1HW

('the Applicant')

Represented by

Big Property (Scotland) Ltd, 560 Dumbarton Road, Glasgow G11 6RH (Mr Rajesh Joshi and Miss Jane Marshall)

Mr James Hamilton, Flat 0/1, 7 Cavendish Street, Glasgow G5 9QG

('the Respondent')

TRIBUNAL :

Mr Joseph C Hughes

[Legal Member]

Ms Eilidh Macmillan

[Tribunal Clerk]

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the tribunal') determined that the Respondent must pay the Applicant the sum of FOUR THOUSAND POUNDS (£4000) STERLING in respect of rent arrears.

NOTE:

The Order for Payment will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

BACKGROUND

1. This is an Application under Rule 70 of the Rules. The Applicant is seeking an Order for Payment of unpaid rent under the tenancy agreement between the parties. The Application was accompanied by a copy of the written tenancy agreement with various supporting documents.
2. The Applicant is the Landlord of the Property. The Respondent was previously the Tenant of the property.

The Legal Member is unaware of any conflict of interest in respect of this case.

THE HEARING

3. Mr Rajesh Joshi and Miss Jane Marshall attended as the Applicant's representatives. The Respondent also was in attendance. He was unrepresented.
4. The case called today as a Case Management Hearing ('CMD'). The Respondent was served with intimation of today's CMD by sheriff officers 5th June 2019.
5. The tribunal is satisfied that parties have been notified of the CMD. Parties have been advised that the tribunal could determine the matter at the CMD if satisfied that it had sufficient information and it was fair to do so.
6. The tribunal found that the Respondent had entered into the tenancy of the Property by lease commencing 13th April 2015 with a rent of £775 per calendar month, paid in advance. The amount of the arrears sought within the Application is £4450. The Applicant lodged written evidence of this calculation.
7. The Respondent indicated that he had tried to lodge some documentation this morning to assist his case. He apologised for this and explained his personal and health circumstances. The Legal Member explored with him the nature of these documents. Mr Hamilton accepted that whilst the documentation provided background information it would not materially impact upon the fact there were rent arrears.
8. Having reflected upon the evidence of the Respondent in respect of costs he had incurred whilst he and his family apparently had to reside in hotel accommodation due to vermin infestation within the property, the Legal Member invited Mr Joshi/Ms Marshall to make contact with the Applicant to

ascertain if he would be prepared to reduce the sum sought and accept restricted rent arrears of £4000.

9. The hearing was adjourned to allow contact to be made with the Landlord. Thereafter Mr Joshi confirmed that the Applicant was agreeable to restrict the rent arrears to £4000.
10. The tribunal was content to utilise the power contained within Rule 17(5) of the Rules which allows a tribunal to make a final decision on an application at a Case Management Discussion.
11. The tribunal was satisfied that the restricted agreed rent arrears (of £4000) were due and granted the Order for Payment for the restricted amount.
12. The tribunal was satisfied that to grant the Order was in accordance with the interests of justice and the Overriding Objective.

The tribunal was very flexible in its approach to the proceedings.

FINDINGS IN FACT

13.
 - (a) The Respondent had previously been the tenant of the Property. The tenancy commenced on 13th April 2015. He resided there with his family until 13th February 2019;
 - (b) The Respondent was legally liable to pay rent as it fell due. The rent was £775 per calendar month;
 - (c) The Respondent has failed to pay all rent lawfully due;
 - (d) The Applicant agreed to restrict the rent arrears to £4000;
 - (e) The Respondent agreed to accept the reduced rent arrears;
 - (f) The Respondent is liable for the restricted rent arrears namely £4000.

REASONS FOR DECISION

14. The Appellant produced evidence on non-payment of the rent in the form of documentary evidence. The tribunal was satisfied on the basis of the documentary productions, supporting oral evidence and submissions made on behalf of the Applicant, that the Respondent is in arrears of rent. Parties have agreed a reduced rent arrears of £4000.

DECISION

15. An Order is made for Payment of the sum of **FOUR THOUSAND POUNDS (£4000) STERLING** by the Respondent to the Applicant.

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.

'Joseph C Hughes'
Legal Member: HPC

9th July 2019