

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

Chamber Ref: FTS/HPC/CV/19/1283

Re: Property at 33 Rushbank, Livingston, EH54 6EY (“the Property”)

Parties:

Mr Andrew Gray, 69 Columbia Avenue, Livingston, EH54 6PR (“the Applicant”)

Mr Donny Mitchell, Mrs Stephanie Mitchell, 33 Rushbank, Livingston, EH54 6EY; 33 Rushbank, Livingston, EH54 6EY (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant(s):

Sum of THREE THOUSAND TWO HUNDRED AND FIFTEEN POUNDS (£3,215) STERLING

- **Background**

An application dated 25 April 2019 was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a private residential tenancy agreement.

- **The Case Management Discussion**

A Case Management Discussion took place on 8 July 2019. The Applicant was personally present and accompanied by their letting agent, Glen Ballantyne of Homes 4 U. There was no appearance by or on behalf of the Respondents. The application had been intimated on the Respondents by Sheriff Officer on 6 June 2019. The Tribunal was accordingly satisfied that the Respondents had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondents’ absence.

A separate application by the Applicant seeking a repossession order against the Respondent under Rule 109 of the Rules and under case reference FTS/HPC/EV/19/1278 was heard at the same time.

The Applicant moved for the order for payment to be granted. The parties had entered into a Private Residential Tenancy Agreement. The Respondents had failed to make payment of rent and at the time of submitting the application had fallen into arrears amounting to £3,215. Since submitting the application, no further payments had been made, increasing the level of arrears to £4,805. The arrears had commenced in August 2018 and there had been a continuous arrear to date. The Respondents had intimated to the Applicant that they intended to leave the Property but had failed to return their keys.

- Findings in Fact

The Tribunal made the following findings in fact:

1. The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced 19 July 2018;
2. In terms of Clause 8 of the Agreement, the Respondent was obliged to pay a monthly rent of £795 to the Applicant;
3. The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £3,215 at the date of raising the Application, and increasing to £4,805 at the date of the CMD.

- Reasons for Decision

The Applicant sought a payment order in the sum due as at the date of the CMD, being £4,805. As no application had been made to vary the application in terms of Rule 14A of the Rules, the Tribunal was not satisfied that an order should be granted in that sum, as no intimation of said increase had been made on the Respondents. However, the Tribunal was satisfied that the Respondent was obliged to make payment of rent in the sum of £795 per month in terms of the Agreement between the parties and had failed to do so, and intimation of the sum originally sought of £3,215 at the time of raising the Application, had been made on the Respondents.

Accordingly, the Applicant was entitled to the Order for Payment in the sum of £3,215.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of THREE THOUSAND TWO HUNDRED AND FIFTEEN POUNDS (£3,215) STERLING

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.

Fiona Watson

Legal Member/Chair

8/7/19

Date