

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of a Case Management Discussion of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to an Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/19/1417

Re: 3 Hermitage Crescent, Dumfries, DG1 7QG ("the Property")

Parties:

Alexander MacMillan, 5 Edwin Close, Bow Brickhill, MK17 9JX ("the Applicant")

GM Thomson & Co, 35 Buccleuch Street, Dumfries, DG1 2AB ('The Applicant's Representative')

Jade Wright, residing formerly at 3 Hermitage Crescent, Dumfries, DG1 7QG (whose present whereabouts are unknown) ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the application should be dismissed.

1. The Applicant submitted an Application to the Tribunal for payment of sums due under the lease between the parties in the sum of £2500, being the sum outstanding as at 9th May 2019.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicant were:

2.1 A copy of the Private Residential Tenancy Agreement of the Property between the Applicant and Ian Craig Gordon and Jade Wright dated 7th March 2018.

2.2 A copy of a rent statement for the period 9th March 2018 to 9th May 2019 which showed that the outstanding sums due at 9th May 2019 amount to £5000.

3. Case Management Discussion

3.1 This case called for a Case Management Discussion (CMD) at 2pm on 2nd July 2019 in Lochvale House, Georgetown, Road, Dumfries, DG1 4DF

The Applicant was not present but his representative, Eilidh Strachan of GM Thomson & Co, was present.

The Respondent was not present and was not represented. The Respondent had been served with notice of the CMD by David A Orr, Sheriff Officer, on 4th June 2019. Eilidh Strachan advised the Tribunal that she believes the Applicant regained possession of the Property on or about 9th May 2019.

No written responses had been received from the Respondents.

3.1 Preliminary Matter

The Applicant had made two applications to the Tribunal for payment of sums due under the lease.

The first Application is application, case number FTS/HPC/CV/19/1416. The Respondent is Ian Gordon and the sum sought is £2500.

The second Application is the present application case number FTS/HPC/CV/19/1417. The Respondent is Jade Wright and the sum sought is £2500.

I explained that clause 1 of the lease states 'Where this is a joint tenancy, the term 'Tenant' applies to each of the individuals above (ie Ian Craig Gordon and Jade Wright)' and the full responsibilities and rights set out in this Agreement apply to each Tenant who will be jointly and severally liable for all the obligations under this Agreement.'

This means that the rent arrears are due by both of the Tenants and the Landlord can pursue one or both of them for the full arrears.

I asked Eilidh Strachan if there was any other agreement between the parties such that each Tenant would be liable for one half of the total rent due. She did not know of any such agreement and explained that the rent payments received each month had been £500, they had not received £250 from each Tenant.

In the circumstances I explained that Jade Wright should be added as a joint respondent to application FTS/HPC/CV/19/1416 and Application FTS/HPC/CV/19/1417 should be dismissed. Eilidh Strachan confirmed that she agreed to this.

4. Decision

The Tribunal dismissed the Application.

5. 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.

J Taylor

Legal Member

2nd July 2019