



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/1862

Re: Property at 43 Main Street, Kirkinner, Newton Stewart, DG8 9AN (“the Property”)

Parties:

Mrs Claire Jenkins, 4 Glenwood Court, Sheffield, S6 1RE (“the Applicant”)

Ms Kirsty McMaster, c/o 21 Main Street, Kirkinner, Newton Stewart, DG8 9AN (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatriidge (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the amount of £3,615.48 by the Respondent to the Applicant should be granted.

Background and Case Management Discussion

- 1.** The application for an order for payment of rent arrears in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 as amended (the Procedural Rules) is dated 2 September 2020 and had been made by Mrs Drysdale as representative of Claire Jenkins.
- 2.** The following documents were lodged to support the application:
 - a.** Tenancy agreement of a Private Residential Tenancy for the property commencing 1 February 2018
 - b.** Rent statement for the period 1 May 2020 to 19 August 2020
 - c.** Payment ledger for the property from G M Thomson for the period from 31 January 2018 to 1 August 2020
 - d.** Email from joint owner of the property confirming he was content for the matter to be dealt with by the Applicant.
- 3.** A Case Management Discussion (CMD) was fixed for 20 November 2020.

4. The Respondent was served with the case papers and the CMD notification by Sheriff Officers on 21 October 2020. The Tribunal was satisfied that the Respondent had the required notice of the CMD as set out in Rules 17 (2) and 24 (2) of the Procedure Rules.
5. No representations from the Respondent were received by the Tribunal.
6. The Case Management Discussion (CMD) took place on 20 November 2020 by telephone call. Only the Applicant's representative Mrs Louise Drysdale from G.M. Thomson & Co participated.
7. At the CMD Mrs Drysdale confirmed that no further contact had been made by the Respondent and that the arrears remained outstanding.
8. The Respondent had been evicted from the property on 28 August 2020.
9. She then lived with her mother at the address provided in the application.
10. As the charges for rent shown in the ledger and rent statement reflected a rental charge for the whole month of August 2020 and the eviction took place on 28 August 2020, a reduction in the amount of outstanding rent of £34.52 should be made to reflect the actual date of termination of the tenancy.
11. The amount due as of the date of the CMD is thus £3,615.48.
12. Mrs Drysdale moved the amendment to the amount and moved the application accordingly.

Findings in Fact:

1. The property was let on a Private Residential Tenancy Agreement commencing on 1 February 2018.
2. The parties are the landlord and tenant of said Tenancy Agreement.
3. The tenancy terminated when the Respondent was evicted on 28 August 2020.
4. The monthly rent for the property was £350 payable on the first day of the month in advance.
5. Rent arrears accrued as per the rent ledger.
6. The arrears as at the date of the CMD are £3,615.48

Reasons for Decision:

1. The Tribunal considered that the material facts of the case were not disputed. 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.

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

Power to determine the proceedings without a hearing

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.

3. The documents lodged are referred to for their terms and held to be incorporated herein.

4. The Tribunal did not consider that there was any need for a hearing as there had been no representations from the Respondent and the application had not been opposed. The facts of the case as set out in the application and further spoken to at the CMD were not in dispute.

5. The Tribunal makes the decision on the basis of the documents lodged by the Applicant and the information given at CMD.

6. Clause 8 of the Tenancy Agreement shows a monthly rental charge payable at the first day of the month of £350.

7. The rent statement and ledger show rent arrears of £3,300 accrued to the end of July 2020.

8. A further £315.48 reflect the rental charge from 1 August 2020 to the date of termination and eviction of the Respondent on 28 August 2020.

9. No payments have been received since the date of eviction.

10. The outstanding amount of rent due to be paid by the Respondent to the Applicant is thus £3,615.48.

Decision:

The Tribunal grants the order for payment of the amount of £3,615.48 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.

Petra Hennig McFatridge

**Petra Hennig McFatridge
Legal Member/Chair**

**20 November 2020
Date**