

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.

Chamber Ref: FTS/HPC/CV/18/2297

Re: Property at 2/2 48 Eversley Street, Tollcross, Glasgow, G32 8HG (“the Property”)

Parties:

PBP Properties (Glasgow) Ltd, C/O 1-2 Let, 104 Belgrove Street, Glasgow, G31 1AA (“the Applicants”)

Mr James Cousins, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondent shall make payment to the applicants of the sum of five thousand nine hundred and forty eight pounds (£5948) with interest at three per cent per annum from 11 June 2019 until payment.

This was the third case management discussion ‘CMD’ in connection with an application in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017, ‘the rules’ and s16 of the Housing (Scotland) Act 2014, ‘the Act’. Mr McFarlane of PBP Properties attended via conference call.

The first two CMD’s were adjourned and directions were made for further documents to be lodged by the applicants. On the first two occasions the tribunal had sight of the sheriff officer’s execution in connection with service on the respondent. The tribunal sitting today had sight of the certificate of service by advertisement dated 11 June 2019 confirming that service by advertisement took place on the website between the 18 April and 11 June 2019. The tribunal was satisfied that the terms of

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rule 24 had been complied with and the tribunal proceeded with the CMD in terms of rule 27.

The tribunal had before it the following copy documents:

1. Application dated 28 August 2018.
2. Rent statement.
3. Photographs
4. Correspondence from the applicants to the tribunal dated October 2018 until 21 March 2019
5. Applicants calculation of losses dated 18 December 2018
6. Invoice from CLC Joinery dated 21 December 2018.
7. Email from CLC Joinery dated 21 March 2019.

Preliminary matter

The tribunal sought to ascertain what had been lodged by the applicants in compliance with the direction of 15 March 2019 which stated that the applicant is required to provide:

Evidence that he paid the sum of £3204 to CLC Joinery on or around 22 December 2018 in relation to their invoice issued to the applicant on 21 December 2018 in respect of the property at 2/2 48 Eversley Street Glasgow The said documentation should lodged with the Chamber no later than 30 March 2019.

The tribunal had no note that any documentation had been lodged by the applicants. Mr McFarlane advised today that he emailed the tribunal in March 2019 with a copy of an email from CLC Joinery. The tribunal adjourned the CMD for a short time to enable Mr McFarlane to locate his email and if possible sent it in to the tribunal administration again. In the intervening period the tribunal did locate the email sent to the tribunal by Mr McFarlane on 21 March 2019. The email enclosed a copy email from CLC Joinery which confirmed receipt of the sum of £3304 from the applicants in relation to their invoice for that sum. They also confirmed that the sum of £6500 paid in December 2018 was inclusive of the sum of £3304 for the work done to the property.

The tribunal was satisfied that the direction had been complied with.

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Discussion

The tribunal heard evidence from Mr McFarlane at the CMD on 15 March 2019 regarding the heads of claim. The tribunal heard submission regarding the rent arrears of £2375 and the and the sum of £369 in respect of an administration fee referred to in clause 6.3 of the lease. The tribunal heard evidence from Mr McFarlane on 15 March 2019 regarding the damage to the property and the work done to reinstate the property. The tribunal had sight of the invoice for £3304 and now has evidence that this sum has been paid. Mr McFarlane gave evidence on 15 March 2019 regarding his calculation of 18 December 2018. The tribunal having had sight of the lease was not minded to include the heads of claim for interest at 8 percent from the date of the application and sheriff officer's fee.

Findings in fact

1. The respondent entered into a lease for the property with Mr McFarlane on 23 December 2015.
2. The sum of two thousand three hundred and seventy five pounds accrued in rent arrears between September 2017 and October 2018.
3. The respondent damaged the property during his tenancy and applicants incurred the sum of three thousand two hundred and four pounds to rectify the damage.
4. The sum of three hundred and sixty nine pounds in respect of a contractual penalty for late payment of rent was incurred between July 2018 and October 2018.

Reasons

This was the third CMD in connection with this application. The tribunal had adjourned on two occasions for evidence that the sum of £3204 had been paid. The applicant Mr McFarlane has provided oral and documentary evidence regarding the rent arrears, damage to his property and the contractual penalty of £3 per day between July 2018 and October 2018, ie 133 days at £3 per day. The tribunal was satisfied that appropriate notice had been given to the respondent and granted an order for £5948. The application sought interest at 8 percent. The tribunal considered it was fair equitable and just to grant interest at 3 percent from today's date until payment.

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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.

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11 June 2019

Date