

Housing and Property Chamber
First-tier Tribunal for Scotland



Certificate of correction of a decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 36 of the the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).

Chamber Ref: FTS/HPC/CV/19/2378

Re: Property at Flat 2/1, 7 Broomhill Avenue, Glasgow, G11 7AE (“the Property”)

Parties:

Mr Nitu Singh, C/O KPM Residential Ltd, 23 Park Circus, Glasgow, G3 6AP (“the Applicant”)

Ms Gaynor Cameron and Mr Alistair Fairlie , Flat 2/1, 7 Broomhill Avenue, Glasgow, G11 7AE (“the Respondent”)

Tribunal Members: Karen Moore

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) hereby corrects the clerical mistake in its Decision and Order f 18 October 2019 with regard to the first name of the second -named Respondent and reissues the Decision and Order in the correct name of the said second -named Respondent as “Alistair Fairlie.”

Karen Moore

Legal Member/Chair

Date

29 January 2020

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision 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/19/2378

Re: Property at Flat 2/1, 7 Broomhill Avenue, Glasgow, G11 7AE (“the Property”)

Parties:

Mr Nitu Singh, C/O KPM Residential Ltd, 23 Park Circus, Glasgow, G3 6AP (“the Applicant”) per the said KPM Residential Ltd (“the Applicant’s Agents”)

Ms Gaynor Cameron and Mr. Alistair Fairlie, Flat 2/1, 7 Broomhill Avenue, Glasgow, G11 7AE (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order for SEVEN THOUSAND THREE HUNDRED AND THIRTY NINE POUNDS AND FIFTY PENCE (£7, 339.59) STERLING with interest thereon at the rate of 8 per centum per annum from the date of the Order until paid in full be granted.

1. By application received between 29 July 2019 and 19 August 2019 (“the Application”), Morton Fraser, solicitors, Edinburgh, on behalf of the Applicant’s Agents and on behalf of the Applicant made the Application to the Tribunal for a payment order in terms of Section 16 of the Act and in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) for rent due and owing by the Respondents to the Applicant. The Application comprised copy of a short assured tenancy agreement between the Parties at a monthly rent of £1,1950.00 and a copy rent statement showing rent due and owing by the Respondents to the Applicant of £7,339.59 at the date of the Application.

2. On 30 August 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion ("CMD") was fixed for 18 October 2019 at 10.00 at The Glasgow Tribunals Centre, Room 112, 20, York Street, Glasgow, G2 8GT. The CMD was intimated to both Parties.
3. On 16 October 2019, the Second-named Respondent contacted the Tribunal by email as follows:-
"I received yesterday another application to be heard by the first tier tribunal on the 12th November. REF:2914. I have a hearing scheduled for the 18th October. REF:2378 I had requested some more time in order to have the written response in for the case due to paperwork being delayed my legal adviser on holiday, I have been pushing my legal adviser for a speedy response but this has not been forthcoming. I am requesting a postponement at this time for application REF: 2378 in order for it to be heard along with application REF:2914 on the 12th November 2019. Therefore allowing what would be similar responses to be returned as both applications relate to the same property. I hope this is acceptable, as this would allow responses to be given, legal cost, and childcare cost kept to a minimum. I look forward to your response."
4. The Applicant's Agents on behalf of the Applicant objected to an adjournment. I considered the request and opposition to it. I took the view that although applications are separate matters, as the purpose of the CMD is to enable the Tribunal to explore how the Parties' dispute may be efficiently resolved by identifying the core issues the CMD discussion would assist both applications and so the Parties were advised as follows:-
"The Tribunal advises that, having regard to all of the circumstances, the CMD should proceed tomorrow. The purpose of the CMD is to discuss the Parties' positions in respect of the case and so it will be helpful to have this known"

Case Management Discussion

4. The CMD took place on 18 October 2019 at 10.00 am at the said Glasgow Tribunals Centre. The Applicant was not present and was represented by Mr. Kamil Olas of the Applicants' Agents who confirmed the Order sought. The First-named Respondent was not present. The Second-named Respondent was present and took part in the CMD by telephone conference from within the said Glasgow Tribunal Centre as he was accompanied by a young child who could not be present in the Tribunal room. and was not represented. The Second-named Respondent advised me that he represented the First-named Respondent who is his partner.
5. Mr. Olas advised me that the most recent payment made by the Respondents to the Applicant was in April this year and that the sum due and now risen to over £10,000.00.
6. Second-named Respondent advised me that the sums due are accepted and explained that the rent arrears a business client on whom he relied for income had failed to pay. He advised me that he is suing the client and expects to have a successful outcome on that court action in January next year.

7. Mr. Olas advised me that the Respondents had made similar promises of payment previously but these had not come to fruition and that the Applicant was not prepared to delay matters until January next year for payment.
8. I advised the Second-named Respondent that as the Respondents accepted the sum due, unless a firm offer of payment could be made in a short timescale, I would grant the Order as requested by the Applicant. The the Second-named Respondent was unable to make a firm commitment.

Findings in Fact

9. From the Application and the CMD I found that a tenancy agreement had existed between the Parties at a rent of £1,195.00 per month and that rent amounting to £7,339.59 is due and owing by the Respondents to the Applicant to 25 July 2019. I also found that the claim for interest at the judicial rate of 8% per annum had been intimated to the Respondents.

Decision and Reasons for Decision

10. Having found that rent and interest amounting to £7,339.59 is due and owing by the Respondents to the Applicant and that the claim for interest at the judicial rate of 8% per annum had been intimated to the Respondent, I then had regard to Rule 17(4) of the Rules which state that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision" and, accordingly, I determined to grant an Order for payment with interest.

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.

Karen Moore

Legal Member/Chair

18 October 2019

Date