



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of Housing (Scotland) Act
2014**

Chamber Ref: FTS/HPC/CV/18/2587

Re: Property at 43 Dalriada Crescent, Motherwell, ML1 3XT (“the Property”)

Parties:

TCIB LLP Trading As Newkeylets, 119 Main Street, Wishaw, ML2 7AU (“the Applicant”)

Mr Slawomir Biernacki, 43 Dalriada Crescent, Motherwell, ML1 3XT (“the Respondent”)

Tribunal Members:

Morag Leck (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £988.06

Background

1. By Application received by the Tribunal on 26th September 2018 (“the Application”), the Applicant applied to the Tribunal for an order for payment in respect of alleged arrears of rent arising from the Respondent’s tenancy of the Property.

The application included copies of:-

- 1) Notice of Short Assured Tenancy and Tenancy Agreement commencing 2/10/15
- 2) Customer Ledger showing rent statement up to 3/9/2018

2. By Notice of Acceptance dated 4th December 2018 a Legal Member of the Tribunal with delegated powers accepted the Application which was referred to a Case Management Discussion (CMD) on 30th January 2019

Case Management Discussion

3. The CMD was held on 30th January 2018 at the Glasgow Tribunals Centre. It was attended by the Applicant's representatives, Mr Andy Smith, Partner and Ms Hayley Hillan, Administrator both of TCIB trading as Newkeylets. There was no appearance by the Respondent. The Notice of the Hearing had been served on the Respondent by Sheriff Officers on 11/1/2019. The CMD therefore proceeded in his absence.
4. The Applicant's representatives confirmed that rent arrears remained outstanding. The Legal Member referred to the statement of rent provided and noted reference to payments prior to 2/10/15. This was explained by Mr Smith and Ms Hillan as relating to a previous tenancy which the respondent had also had with the Applicant. It was also explained by Mr Smith that the rent had increased from the original £250 in the lease to £300 following a rent review in February 2018. The Respondent had been employed by Newkeylets until he was paid off during 2018 and rent had previously been deducted from his wages. No rent had been received from the Respondent since he was paid off .
5. The Legal Member advised that she had been provided with an email communication and attachments sent by the Applicant to the Tribunal on 17th January 2019. The Applicant sought to amend the arrears of rent due to £2188.06 and attached an amended statement of rent from May 2018 and various invoices sent to the Respondent in respect of monthly rent due. The Legal Member further advised that whilst these documents had been sent by post to the Respondent, as he was not present at today's hearing, the Tribunal could not confirm that he had received them. If the Applicant wished to amend the application to seek the higher figure of £2188.06 and the Tribunal agreed to the amendment, then the application would require to be continued to a further CMD to allow for formal intimation of the amended application upon the Respondent. Mr Smith then stated that he preferred the matter to be dealt with today and in the circumstances he would withdraw the request to amend. He confirmed the amount of arrears sought was as stated in the application namely £988.06.
6. Mr Smith explained that the Respondent had been employed by the company on three different occasions over a number of years since 2006. He submitted that the Respondent had alcohol related issues and consequently he had had to pay him off. Mr Smith and Ms Hillan also submitted that every effort had been made to support the Respondent after he had been paid off to assist him with addressing the rent arrears. They had visited him at home, taken him to the Benefits Office and encouraged friends to speak with him but the

Respondent had not dealt with the arrears which continued to increase. They referred again to the Respondent's alcohol problems and to ongoing eviction proceedings

Findings in Fact

7. The parties entered into a Short Assured Tenancy which started on 2nd October 2015.
8. The rent for the property was initially £250 and currently is £300.
9. The Respondent continues to reside in the property at the present time.
10. At the date of the application the Respondent had arrears of rent of £988.06

Reasons for Decision

11. The Tribunal was satisfied that there was a valid certificate of Service by Sheriff Officers and that the Respondent was aware of the time and place of the CMD. He had not attended and not submitted any written representations,
12. The Tribunal was also satisfied from the documents provided by the Applicant and the submissions made at the CMD that there was a Short Assured Tenancy and the Respondent had accrued rent arrears of £988.06 which had not been paid.
13. The Tribunal, having been satisfied that the amount of £988.06 was due by the Respondent to the Applicant, a payment order for that sum was made.

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.

Ms Morag Leck

Legal Member

Date

30th January 2019