



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) Scotland Act 2016 ('the 2016 Act')**

**Chamber Ref: FTS/HPC/CV/18/2595**

**Re: Property at 2D Ferguson Street, Johnstone, PA5 8SY ("the Property")**

**Parties:**

**Mr David Lang, 34 Riccarton Avenue, Paisley, PA2 6BG ("the Applicant")**

**Miss Andrea Lambert, 2D Ferguson Street, Johnstone, PA5 8SY ("the Respondent")**

**Tribunal Members:**

**Sarah O'Neill (Legal Member)**

**Decision** (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment by the respondent of the sum of £855 should be granted in favour of the applicant.**

**Background**

An application was received from the applicant on 28 September 2018 under rule 111 of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 rules") seeking an order for payment in respect of rent arrears owed by the respondent.

The applicant was seeking payment of rent arrears of £1355 from the respondent in relation to the property, being the amount of arrears outstanding as at the date of the application. The application included the tenancy agreement; and a rent statement, showing the rent due as at 1 September 2018 to be £1355.

Notice of the case management discussion, together with the application papers and guidance notes, had been served personally on the respondent by sheriff officers on behalf of the tribunal on 4 January 2019.

An email was received from Kevin Montgomery, housing adviser at Renfrewshire Citizens Advice Bureau on 9 January 2019, enclosing a mandate completed by the respondent, advising that he would be representing her at the case management discussion. A further email was received from Mr Montgomery on 17 January, stating that he was now unable to represent the respondent at the case management discussion.

No written representations were received from either the respondent or her representative before the case management discussion.

### **The Case Management Discussion**

A case management discussion was held on 23 January 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was present and gave evidence on his own behalf. He was accompanied by his wife, Mrs Moira Lang, who was there as his supporter.

The respondent was not present and was not represented. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a case management discussion had been duly complied with. The papers had been served on the respondent personally by sheriff officer on behalf of the tribunal. It was also clear from the emails sent by Mr Montgomery to the tribunal that the respondent was aware of the case management discussion. The tribunal delayed the start of the discussion by 15 minutes, in case the respondent had been detained. She did not appear, however, and no telephone calls or messages had been received from her. The tribunal therefore proceeded with the case management discussion in the absence of the respondent.

The applicant produced an updated rent statement at the case management discussion showing that as at the date of the case management discussion, the respondent owed a total of £1225 in rent arrears. He therefore asked the tribunal to amend his application to reflect this, and to grant an order for payment against the respondent for this amount.

### **Findings in Fact**

- The tribunal was satisfied that there was a valid private residential tenancy in place between the parties.
- As at the date of the case management discussion, the respondent owed the applicant the sum of £1225 in rental payments.

### **Reasons for decision**

The tribunal was satisfied that at the date of the case management discussion, the respondent owed the applicant the sum of £1225 in rental payments. While the applicant confirmed that the updated rent statement had not been sent to the respondent, the tribunal noted that the outstanding arrears were lower than they had been at the time of the application. There was therefore no prejudice to the

respondent in agreeing to amend the applicant's application to reflect the lower amount, and the tribunal therefore did so.

The tribunal noted that the tenancy agreement provided for a deposit of £520 to be paid by the respondent to the applicant, to be held within an approved tenancy deposit scheme. The applicant confirmed that this had been paid, and agreed that he would be able to claim the deposit sum towards unpaid rent. He asked the tribunal not to deduct the full deposit sum from the outstanding arrears, as the deposit sum would not cover any future unpaid rent or the costs of any damage, cleaning etc. which may arise on termination of the respondent's tenancy (an order for recovery of possession also having been granted by the tribunal on the same date). He told the tribunal that he let out a number of properties, and that in his experience, he might expect to have to pay on average £150 in respect of damage at the end of a property.

To reflect this, the tribunal determined that it would be reasonable to deduct the sum of £370 (i.e. £520 – £150) from the sum of the arrears outstanding. It would be open to the applicant to make a further application to the tribunal in respect of any future unpaid rent.

### **Decision**

The tribunal grants an order for payment by the respondent to the applicant for the sum of £855.

### **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.**

S. O'Neill

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**Legal Member/Chair**

23/1/14  

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**Date**