



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section under Section 16 of the
Housing (Scotland) Act 2014 for Civil Proceedings in relation to a short
assured tenancy under the Housing (Scotland) Act 1988**

Chamber Ref: FTS/HPC/CV/21/2641

Re: Property at 33/2 Restalrig Road, Edinburgh, EH6 8BD (“the Property”)

Parties:

Ms Steff Hewer, 11 Marionville Avenue, Edinburgh, EH7 6AT (“the Applicant”)

**Mr Cesar Blanco Perez, Carlota Panakal Gonzales-Barros, 33/2 Restalrig Road,
Edinburgh, EH6 8BD (“the Respondent”)**

Tribunal Members:

Karen Kirk (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondents for the sum of £12,005.00 with interest thereon at the rate of 3.01% per annum on the rental sums running from the date of the decision of the First-tier Tribunal to grant this order, being 23rd December 2021.

The Hearing

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 16 of the Housing (Scotland) Act 2014 for civil proceedings in relation to a short assured tenancy under the Housing (Scotland) Act. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented by Scott Runciman, Gilson Gray LLP.

The Respondents did not attend the Tribunal or provide written representations

Preliminary Matters

On the matter of the non attendance of the Respondents Mr Runciman advised that the Respondents had received in terms of the Applications significant emails and the most recent correspondence was the email that he lodged of 9th December 2021 which intimated the application to Amend the Sum sought in the Payment Action. He confirmed same had been intimated on the Respondents. This was his last contact with them.

The application to amend under Rule 14A referred to by Mr Runciman was dated 9th December 2021 and this had been intimated on the Respondent. The sum now sought in terms of the amendment which was allowed as properly intimated and evidenced was £11,705. An updated further rent statement was lodged.

Case Management Discussion

Mr Runciman confirmed that the Applicant sought a payment order in terms of the Tenancy agreement lodged and dated 6th February 2016 for non payment of rent amounting to the amended sum of £11,705. The rent evidence in the Application confirmed the Applicant's position. The rent in terms of the agreement was £795 per calendar month.

Mr Runciman also sought grant of the contractual reasonable costs of the Applicant. He referred to clause 2.22 of the agreement. He sought in terms of the invoice lodged vouching for same £300 which included VAT. Mr Runciman in terms of clause 2.2 of the agreement also sought contractual interest of 3.1% from the date of the Orders until payment. In total the Applicant sought £12,005.00 plus interest as sought.

There were no other matters arising.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondents had received notification of the proceedings and had not challenged same by written representations or attendance. The Respondents had been served by Sheriff Officer and Certificate of Service had been lodged with the Tribunal. There had been recent email contact with the Respondents on the basis further productions had been lodged by the Applicant and intimated on the Respondents.**

2. The Tribunal was satisfied that the relevant tenancy was in terms of the 1988 Act, a Short Assured Tenancy properly constituted and dated 6th February 2016. The Tribunal was further satisfied that the rent due was £795 per month and on the evidence before the Tribunal rental arrears had accrued in terms of this tenancy to the sum of £11705. Rental evidence had been lodged by the Applicant evidencing the rent due.
3. In terms of clause 2.22 of the Tenancy the respondents agreed “*to pay, or be liable to pay, the reasonable net costs incurred by the landlord, or his agent or professional advisers, in successfully enforcing or remedying a notable or material breach of, or significant failure to comply with, the obligations of the tenant under this agreement.*” The Respondents have failed to comply with their obligation to pay rent
4. The Applicant lodged an invoice relevant to her costs due to the contractual breach for the amount of £250 plus vat, the total cost was £300.
5. In terms of clause 2.2 the Respondents agreed to pay interest on the late payment of rent at 3% over the Bank of England or Royal Bank of Scotland base rate on late payments. The applicant sought in terms of contractual interest 3.01% on any rent arrears due.
6. Accordingly in terms of Section 16 of the Housing (Scotland) Act 2014 the Tribunal granted a payment order against the Respondent for the sum of £12,005.00 plus interest on the rental sums only of 3.01% per annum

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 Kirk

23 December 2021

Legal Member/Chair

Date