



**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/19/2678

**Re: Property at Flat 2/2, 73 Waverley Gardens, Shawlands, Glasgow, G41 2DP
("the Property")**

Parties:

**Mr Usman Hussain, 432 Shields Road, Pollockshields, Glasgow, G41 1NS ("the
Applicant")**

**Mr Tom Flay, Mr Ryan Laskey, 74 Camanachd Crescent, Fort William, PH33
6XZ ("the Respondent")**

Tribunal Members:

Andrew Upton (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Applicant)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that the application should be dismissed.**

FINDINGS IN FACT

1. The Applicant and the Respondents entered into a Short-Assured Tenancy Agreement for the Property on 1 August 2017.
2. The period of the Lease was from 1 August 2017 to 1 February 2018 and thereafter on a month to month basis. The respondents vacated the property on 1 August 2019. By that time their relationship with the applicant had deteriorated and they did not tell the applicant they had vacated the property.
3. The initial rent in terms of the Tenancy Agreement was £750 per month.
4. The Respondents do not owe the sum of £750 to the Applicant in respect of rent for November 2018.

5. The Respondents do not owe the sum of £508.06 to the Applicant in respect of rent for December 2018.
6. The Respondents do not owe the sum of £145.16 to the Applicant in respect of rent for January 2019.
7. The Respondents do not owe the sum of £750 to the Applicant in respect of rent for February 2019.
8. The Respondents do not owe the sum of £750 to the Applicant in respect of rent for March 2019.
9. The Respondents do not owe the sum of £50 to the Applicant in respect of rent for April 2019
10. The Respondents do not owe the sum of £700 to the Applicant in respect of rent for June 2019.
11. The Respondents do not owe the sum of £750 to the Applicant in respect of rent for July 2019.

FINDINGS IN FACT AND LAW

1. The applicant's averments in the application being unfounded in fact in that the Respondents do not owe any sums towards rent for the period 1 November 2018 to 31 July 2019, the application should be dismissed.

STATEMENT OF REASONS

1. This application called for a Hearing by teleconference call on 24 September 2020 at 10.00am. The Respondents were both present on the call. The Applicant was neither present nor represented.
2. In terms of the First-tier Tribunal for Scotland (Housing and Property Chamber) Procedure Rules:-

"24.— Hearings

- (1) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a hearing (including any adjourned or postponed hearing) and any changes to the date, time and place of a hearing.
- (2) The notice period for a hearing must be no less than 14 days from the date of receipt of the notice, unless the parties consent to a shorter period or there are urgent or exceptional circumstances.

- (3) A hearing must be held in public unless the First-tier Tribunal, on its own initiative or on an application by a party, decides that it is necessary to do otherwise in the interests of justice.
- (4) Subject to any direction of the First-tier Tribunal, at a hearing—
 - (a) a party or a party's representative may conduct the party's case;
 - (b) the parties will be heard in such order and, subject to the provisions of these Rules, according to such procedure as the First-tier Tribunal determines; and
 - (c) a party may make representations, call witnesses, give evidence on his or her own behalf and cross-examine any witness called by another party.
- (5) The First-tier Tribunal may exclude from the hearing a person who is to appear as a witness until such time as that person gives evidence if it considers it is fair in all the circumstances to do so.

...

29. Hearing case in the absence of a party

If a party or party's representative does not appear at a hearing, the First-tier Tribunal, on being satisfied that the requirements of rule 24(1) regarding the giving of notice of a hearing have been duly complied with, may proceed with the application upon the representations of any party present and all the material before it.”

3. Notification of the date, time and teleconference details was given to the Applicant by email to the address specified by him on 31 August 2020. The Tribunal was satisfied that he had received notice of the Hearing that was compliant with the requirements of Rule 24(1). Further, an attempt was made to contact the Applicant by telephone, but it appeared that the telephone was switched off. That being so, the Tribunal determined that it should proceed with the application upon the representations of the parties present and all the material before it in accordance with Rule 29.
4. This application called for a Case Management Discussion on 25 August 2020. At that CMD, the following matters of fact were agreed between the parties:-
 - a. The Applicant and the Respondents entered into a Short-Assured Tenancy Agreement for the Property on 1 August 2017.
 - b. The period of the Lease was from 1 August 2017 to 1 February 2018 and thereafter on a month to month basis. The respondents vacated

the property on 1 August 2019. By that time their relationship with the applicant had deteriorated and they did not tell the applicant they had vacated the property.

- c. The initial rent in terms of the Tenancy Agreement was £750 per month.
5. Mr Flay, the First Respondent, stated to the Tribunal that the sum claimed for was not, as a matter of fact, due by him and Mr Laskey to the Applicant. Similarly, Mr Laskey, the Second Respondent, stated to the Tribunal that the sum claimed for was not, as a matter of fact, due by him and Mr Flay to the Applicant.
6. The Tribunal had no evidence before it to contradict the Respondents' evidence that the sums claimed for were not, in fact, due. The only document produced by the Applicant that tended to suggest otherwise was a Rent Statement which he had prepared, but by failing to participate in the Hearing he did not speak to that document. He could not explain to the Tribunal the provenance of that document, or how the figures narrated thereon had been calculated. Absent that explanation, the Rent Statement is of no evidential value; it is only a piece of paper with words and figures thereon.
7. Absent any contradictory evidence, the Tribunal accepted the Respondents' evidence that the sums claimed for in the Application were not due by them to the Respondent. Accordingly, the Tribunal found that the assertions made in the application by the Applicant were unfounded in fact. That being so, the Tribunal unanimously dismissed the Application.

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.

Andrew Upton

Legal Member/Chair

24.9.2020
Date