

Housing and Property Chamber
First-tier Tribunal for Scotland



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/18/2751

Re: Property at 12 Livingstone Drive, The Murray, East Kilbride, G75 0HB (“the Property”)

Parties:

Franchville Investments Ltd, c/o The Property Bureau, Melville House, 70 Drymen Road, Bearsden, G61 2RH (“the Applicants”)

Mr Christopher Docherty, 12 Livingstone Drive, The Murray, East Kilbride, G75 0HB (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondent shall make payment to the applicants of the sum of three thousand seven hundred and forty five pounds (£3745).

This is a joint case management discussion ‘CMD’ regarding an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s16 of the Housing (Scotland) Act 2014, ‘the Act’ in connection with rent arrears for the property at 12 Livingston Drive The Murray East Kilbride G75 0HB ‘the property’, and a separate application in connection with an order for possession in terms of rule 66. The rule 66 CMD was adjourned until 28 January 2019 for further information to be produced. This application was made on behalf of the applicants, Franchville Investments Ltd, by Mr Ian Buchanan of Buchanan Burton Solicitors on the 17 October 2018. The tribunal had before it the following copy documents:

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1. Application dated 15 October 2018 and received by the tribunal on 17 October 2018.
2. Rent statement detailing arrears to August 2018.
3. Tenancy agreement dated 16 March 2017 for the initial term of 16 March 2017 until 16 September 2017.

The tribunal has sight of the execution of service from the sheriff officers regarding the service of the application and the CMD on the respondent personally on 28 November 2018.

Case management discussion.

The applicants' solicitor Mr Buchanan attended the CMD. The respondent did not attend and was not represented. The tribunal proceeded with the CMD in the absence of the respondent in terms of rule 29 given that notice in terms of rule 24 had been carried out.

The tribunal noted that the application was for rent arrears for a total sum of £3750. The rent statement however referred to arrears of £3745 accrued between December 2017 and August 2018.

The applicants' solicitor Mr Buchanan explained that around 20 December 2018 he wrote to the Tribunal with an amended rent statement seeking the higher sum of £6420 and seeking to amend the application to this effect. The tribunal was not minded to allow the application to be amended given that the respondent had no notice of the higher sum and the application made no mention of further sums due. The tribunal was minded either to adjourn consideration of the application for the respondent to receive notification of the amendment or for an order in the sum of £3745 to be granted today. The applicants can make a fresh application for further rent arrears which have accrued. Mr Buchanan sought an order today in the sum of £3745.

Findings in fact

The tribunal finds in fact:

1. The applicants are the owners of the property.
2. The applicants and the respondent entered into a tenancy agreement for the let of the property for the initial period of 6 months from 16 March 2017 until 16 September 2017 and thereafter on a month to month basis.
3. The monthly rent due was £535.
4. As at the 15 August 2018 the sum of £3745 had accrued in rent arrears. This sum remains outstanding and further arrears have accrued.

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Reasons

This is an undefended application in terms of rule 70 to recover rent arrears. The tribunal is satisfied that the respondent has received notice of the application in terms of rule 24. Accordingly the tribunal proceeded to hear the application in the absence of the respondent in terms of rule 29. The tribunal is satisfied that it has sufficient information before it today to make a decision and is satisfied that the procedure has been fair. The tribunal granted an order for payment of rent arrears totalling £3745 as per the original rent statement lodged.

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.

Lesley Ward

3 January 2019

Lesley A Ward Legal Member

Date