

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 the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules)

Chamber Ref: FTS/HPC/CV/18/2363

Re: Property at 76/2 Craigmount Brae, Edinburgh, EH12 8ZQ (“the Property”)

Parties:

**Places for People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW
 (“the Applicant”)**

**TC Young, Solicitors, Melrose House, 69a George Street, Edinburgh, EH2 2JG
 (“Applicant’s Representative”)**

**Mr Michael Robertson, present whereabouts unknown, formerly residing at 76/2
 Craigmount Brae, Edinburgh, EH12 8ZQ
 (“the Respondent”)**

Tribunal Members:

Susanne L. M. Tanner Q.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay the Applicant the sum of SIX HUNDRED AND SIXTY NINE POUNDS AND NINE PENCE (£669.09) STERLING; and made an Order for Payment in respect of the said sum

STATEMENT OF REASONS

1. Procedural Background

- 1.1. The Applicant's Representative made an Application to the tribunal on 5 September 2018 in terms of Section 16 of the 2014 Act and Rule 70 of the 2017 Rules, seeking an order for payment against the Respondent in the sum of £1239.09 in respect of rent arrears.
- 1.2. The documentation with the Application comprised:
 - 1.2.1. Short Assured Tenancy Agreement
 - 1.2.2. Rent Statement
 - 1.2.3. Letters relating to rent increases
 - 1.2.4. Trace Report in respect of the Applicant's attempts to trace the Respondent.
- 1.3. On 2 October 2018 the Applicant's Representative was asked to provide an address for the Respondent and replied stating that Sheriff Officers had been unable to trace a residence but provided his place of employment at Dufrain, 17 Northumberland Street, Edinburgh.
- 1.4. The Application and documentation submitted with it was considered by the legal member of the tribunal with delegated powers of the Chamber President.
- 1.5. On 5 November 2018, the Application, which comprised documents received between 5 September and 5 November 2018, was accepted for determination by the tribunal.
- 1.6. A Case Management Discussion ("CMD") was fixed for 11 January 2019 at 10.00 at George House, 126 George Street, Edinburgh.
- 1.7. By letter of 13 December 2018, parties were notified of the date, time and place of the CMD and were told that they were required to attend. Parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application, which may involve making or refusing a payment order. Parties were advised that if they do not attend the CMD that would not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was invited to submit written representations in response to the Application by 3 January 2019.
- 1.8. On 14 December 2018, Sheriff Officers attempted to effect service on the Respondent at the address provided which was a place of employment but

established that he was no longer working there so they were unable to effect service on the Respondent.

- 1.9. The CMD was cancelled due to the failure to serve the application paperwork and notification of CMD on the Respondent.
- 1.10. On 27 December 2018 and 31 January 2019 the tribunal's administration wrote to the Applicant's Representative requesting that an address was provided for service.
- 1.11. On 20 February 2019 the tribunal's Rules changes to allow service by advertisement on the tribunal's website.
- 1.12. On 18 March 2019 the tribunal's administration advised the Applicant's Representative that it intended to proceed by means of service on the Respondent by advertisement on the tribunal's website, unless any objection was received from the Applicant's Representative. No objection was received.
- 1.13. A Case Management Discussion ("CMD") was fixed for 4 June 2019 at 14.00 at George House, 126 George Street, Edinburgh.
- 1.14. By letter of 23 April 2019, parties were notified of the date, time and place of the CMD and were told that they were required to attend. Parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application, which may involve making or refusing a payment order. Parties were advised that if they do not attend the CMD that would not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair.
- 1.15. Between 24 April 2019 and 4 June 2019, service by advertisement on the Respondent on the tribunal's website of the Case Management Discussion notification letter dated 23 April 2019 was carried out.
- 1.16. The Respondent did not submit any written representations or make any contact with the tribunal up to and including the date of the CMD on 4 June 2019.

2. CMD: 4 June 2019 at 1400h, George House, 126 George Street, Edinburgh

- 2.1. Nicola Caldwell from TC Young, Solicitors, the Applicant's Representative, attended on behalf of the Applicant.

- 2.2. The Respondent did not attend the hearing and made no contact with the tribunal's administration or venue. The tribunal waited until 1405h. The tribunal was satisfied in terms of Rule 29 of the 2017 Rules that the requirements of Rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the Applicant and all the material before it.
 - 2.3. Ms Caldwell stated that since the Application was made on 5 September 2018, the Applicant has been awarded the full deposit of £575.00 in respect of rent arrears, which has been offset by the Applicant against the arrears claimed from the Respondent in the Application. The Applicant's Representative amended the Application with the consent of the tribunal to claim the lower sum of £669.09.
 - 2.4. Ms Caldwell made submissions in support of the claim for a payment order in the sum of £669.09 with reference to the documentation lodged with the Application. She stated that there was a Short Assured Tenancy which started on 18 August 2015. Clause 4.1 of the tenancy agreement provides for rent at the rate of £470 per calendar month. There were three rent increase letters between the start and end of the tenancy. In April 2016 it was increased to £486.45. On 1 April 2017 it went up to £501.04. It remained the same from 1 April 2018 to the end of the tenancy. (Although there was a rent increase letter the rent remained at £501.04 from 1 April 2018).
 - 2.5. Ms Caldwell referred to the four page rent statement dated 25 July 2018. It is in two different formats due to a system change at the Applicant's office. The Respondent started to go into arrears in June 2017. The tenant vacated on 19 May 2018 at which point the rent statement shows that two amounts of £501.04 were credited back to the account. As at 19 May 2018, when the tenancy ended, the debit figure was £1239.09, which was the amount originally claimed in the Application.
 - 2.6. From the figure of £1239.09, the deposit of £570.00 has been deducted to reach the amended figure of £669.09.
3. The tribunal makes the following findings-in-fact:
 - 3.1. There was a Short Assured Tenancy between the Applicant and the Respondent dated 18 August 2015.
 - 3.2. The initial tenancy term was for the period 18 August 2015 to 19 February 2016. After that time the lease tacitly relocated on a monthly basis until it ended on 19 May 2018.

3.3. The rent payable in terms of the lease was £470.00 per calendar month payable monthly in advance on the 1st of each month, with a pro rata payment for the period from the date of entry to 31 August 215; £486.45 per calendar month with effect from 1 April 2016 and £501.04 per calendar month with effect from 10 February 2017.

3.4. As at the end of tenancy on 18 May 2019, the rent arrears were £1239.09.

3.5. The Applicant received the Applicant's deposit of £570.00 in respect of a payment towards rent arrears.

3.6. The amount of rent arrears lawfully due by the Respondent to the Applicant after deduction of the deposit payment is £669.09.

4. Decision

4.1. The tribunal determined on the basis of the Application (including supporting documents) and the oral representations made on behalf of the Applicant; and in the absence of written or oral submissions from the Respondent; that the Applicant had proved that the Respondents owes the Applicant the amended sum of £669.09 sought on behalf of the Applicant and made an order for payment by the Respondent to the Applicant for the said sum.

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 Tanner

Susanne L. M. Tanner Q.C.
Legal Member/Chair

4 June 2019