



**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/19/0017

Re: Property at 4 Bridge Street Lane, Edinburgh, EH15 1BZ (“the Property”)

Parties:

Mr Mohammad Afzal, 2/5 Drumsheugh Gardens, Edinburgh, EH3 7QJ (“the Applicant”)

Mr Jamie Anderson formerly of 4 Bridge Street Gardens, Edinburgh “the Respondent”)

Tribunal Members:

Jan Todd (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 for the sum of £2613.52 should be granted in respect of rent arrears arising out of the tenancy of the Property by the Respondent from 1st July 2018 to 1st March 2019.

- **Background**

This is the second case management discussion to consider the application by the Applicant for payment of rent arrears in respect of the lease of the Property by the Respondent. A previous action had been brought under FTS/HPC/CV/18/0243 seeking payment of £850 for the period up to 1st July 2018. That application resulted in an order for payment being granted for £850.

In the current application the Applicant is seeking further rent arrears due from 1st July to date of the application, 4th January 2019 of £2568,54. At the first CMD held on 5th March 2019 however the Tribunal member was not satisfied that the statement of rent due was clear as to what rent had accrued and been paid since 1st July 2018 as the statement produced went back to 2015 predating the current rental agreement

and predating the 1st July 2018 the period for which an order for payment of outstanding rent had already been made.

The outcome of that first CMD was that the case was continued to allow the Applicant to lodge a fresh statement of rent for the relevant period and to provide any other documentation showing or tending to show the payments made by the Respondent for that period.

A further CMD was scheduled for 15th April 2019 at George House in Edinburgh but the papers were not able to be delivered to the Respondent. Stirling Park sheriff officers attempted to effect service but advised by letter dated 1st April that they were unable to do so as the property was empty and they were advised that the defender had left approximately 2 weeks previously.

No further information could be gleaned regarding the defenders whereabouts and by letter to the Applicant dated 15th April the Tribunal advised it would now serve the papers by advertisement on its website in accordance with the Tribunal rules.

The Respondent has been given notice of this CMD which is confirmed by the Certificate of Service by Advertisement dated 20th June 2019, of the CMD notification on the Tribunal for Scotland Housing and Property Chamber Website from 2nd May 2019 to 20th June 2019. The Tribunal considered it fair to proceed with the CMD in the absence of the Respondent fair notice having been given.

The Applicant had lodged in accordance with the direction in the decision of the first CMD a revised schedule of rent, dated from 1st January 2018 to 1st March 2018. They have also lodged a print out of benefits paid for the rent between 1st January 2018 and 1st October 2018.

In addition to these documents the Tribunal had sight of

- Decision of previous Tribunal dated 6th July 2018
- Copy tenancy agreement dated 19th October 2017
- Schedule of rent from 1st March 2015
- AT5 notice
-

CMD Discussion

- There has been no written response from the Respondent nor did the Respondent attend the CMD. The applicant did not attend but was represented by Ms Sharon Shanley the Applicant's letting agent.
- Ms Shanley confirmed that the tenancy is now at an end and although she is not sure when the respondent finally left the property she confirmed that she visits that street regularly and was aware that sometime after the date of the first CMD, namely at some point in March 2019 the Respondent vacated the Property.
- Ms Shanley confirmed that she was therefore seeking payment of rent arrears of £2,778.27 as per her lodged statement of rent. The Tribunal however pointed out that the rental sums due from 1st July 2018 (date after which the previous order had been granted) to 1st March 2019 amounted to £5,175 and the rent paid was £2561.48 leaving a balance due of £2,613.52. This sum was based on the figures provided by the Applicant in the updated schedule of

rent, and the sums paid towards the rent were verified by the statements of benefit set out in an e-mail from Edinburgh City Council.

- Ms Shanley accepted that the rent to be considered should only be from 1st July and accepted that the revised figure of rent arrears of £2613.52 was accurate. She also advised that she believed the Respondent was now working and that is why his benefits stopped latterly and the last benefit payment was 1st October 2018.

Findings in Fact

- The Applicant entered into a Lease of the Property to the Respondent as tenant from 1st November 2017 to 1st November 2018 by lease dated 19th October 2017.
- The lease continued monthly by tacit relocation until sometime in March 2019 when the Respondent who is the tenant vacated the Property.
- Rent was due on 1st March 2019 as it was payable in advance.
- The Rent due in terms of the lease is £575 per calendar month.
- The Applicant has claimed and obtained an order for payment from the Housing and Property Tribunal for the period of the tenancy up to 1st July 2018.
- The Applicant is seeking an order for payment of rent arrears from 1st July 2018 to 1st March 2019 when the last rental payment was due.
- The total rent due from 1st July 2018 to 1st March 2019 inclusive amounts to £5,175.
- Rent paid by the Respondent to the Applicant for the period between 1st July and 1st March 20-19 is £2,561.48.
- The Balance outstanding for that period since 1st July 2018 to 1st March 2019 is £2613.52.

Reasons for Decision

The Tribunal found the Applicant's agent credible in her submissions, that rent arrears were due for the time between 1st July 2018 and 1st March 2019. The rent schedule shows the sums due and paid for in that period showing an overall balance due of £2613.52. The e-mail from Edinburgh City Council of benefits paid for the rental of this Property verify the payments shown on the rent schedule and confirm payment of benefit stopped after 1st October 2018. This matches the figures in the rent schedule which shows no further rent was received after October 2108.

The Tribunal accepted this evidence of sums due and granted an order for payment.

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.

J Todd

Legal Member/Chair

20th June 2019

Date