

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 71 of the Private Housing (Tenancies) (Scotland) (Act) 2016.

Chamber Ref: FTS/HPC/CV/19/4018

Re: Property at 5 Sanderson Place, Newbigging, DD5 3RQ (“the Property”)

Parties:

Mr Alastair Anton, Mrs Lorna Anton, c/o Struan Baptie Property Management Ltd, 1A Victoria Road, Dundee, DD1 1EL (“the Applicants”)

Mr Kenneth Gijsbertus Vanderdeyl, Ms Elizabeth Isabel Chisholm, Addresses Unknown (“the Respondents”)

Tribunal Member:

Martin McAllister (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment for the sum of THREE THOUSAND ONE HUNDRED AND TWENTY FOUR POUNDS FIFTY FOUR PENCE (£3,124.54) be made against Mr Kenneth Gijsbertus Vanderdeyl in favour of the Applicants.

Background

This is an application for payment. The application is dated 19th December 2019. Intimation of the case management discussion was made by advertisement because the addresses of the Respondents are not known.

The Case Management Discussion

The case management discussion was held in Caledonian House, Dundee on 18th March 2020. The Respondents were not present but Mrs Chisholm (hereinafter called “the second Respondent”) was represented by Mr Kenneth

Marshall, solicitor who said that he had no instructions from Mr Vanderdeyl (hereinafter called "the first Respondent").

The Applicants was represented by Mr Stephen Forsyth, solicitor. Mr Struan Baptie and Mrs Melissa Coleman of Struan Baptie Property Management Ltd, letting agents of the Applicants were present.

Preliminary Matters

The Legal Member outlined the purpose of a case management discussion. Mr Forsyth said that the Respondents had left the Property. Mr Forsyth said that, his clients were seeking an order for payment to be made against the first Respondent alone. He said that his clients had come to a view on their ability to make any recovery from the second Respondent. Mr Forsyth said that, because there was uncertainty about the first Respondent having intimation of the rent statement showing arrears of £5,449.54, he would only be seeking an order for the sum of £3,124.54.

Documents Before the Tribunal

1. The application dated 19th December 2019.
2. Rent statement as at the date of application showing rent arrears of £3,124.54.
3. Rent statement showing current rent arrears of £5,449.54.
4. Certificate of Service by Advertisement dated 18th March 2020.

Findings in Fact

1. The Applicants and Respondents entered into a private residential tenancy agreement for the Property dated 21st December 2018.
2. The tenancy commenced on 21st December 2018.
3. The tenancy has come to an end.
4. The monthly rent for the Property in terms of the tenancy agreement was £750.
5. There are currently rent arrears of £5,449.54.
6. There were rent arrears of £3,124.54 on 19th December 2019.

Reasons

1. Mrs Coleman and Mr Baptie stated that the level of rent arrears stated in both statements was accurate. The Tribunal accepted that the current rent arrears are £5,449.54 and that the rent arrears at the date the application was lodged with the Tribunal was £ 3,124.54. The Tribunal accepted the evidence of Mrs Coleman and Mr Baptie in this regard.
2. The Tribunal had received no application for a Time to Pay Order.
3. The Tribunal determined that it was acceptable for the Applicants to restrict their claim to one Respondent when there was a joint and several liability. It was a matter for the first Respondent if he wanted to seek recovery from the second Respondent.

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.

Martin J. McAllister, Legal Member of the First-tier Tribunal for Scotland

19th March 2020