



**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) 2016**

**Chamber Ref: FTS/HPC/CV/18/2851**

**Re: Property at 25 Balmore Drive, Hamilton, ML3 8DB (“the Property”)**

**Parties:**

**Turing Properties Investment Limited, Milton House, 33a Milton Road, Hampton, Middlesex, TW12 2LL (“the Applicant”)**

**Ms Darcey Carrigan, 25 Balmore Drive, Hamilton, ML3 8DB (“the Respondent”)**

**Tribunal Members:**

**Lynsey MacDonald (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment should be granted.**

**1. Background**

- 1.1. The Applicant sought an order for payment in respect of rent arrears and repairs in relation to the property. An application in terms of Rule 111 (Civil Proceedings in relation to a Private Residential Tenancy) was received by the Tribunal on 23<sup>rd</sup> October 2018.
- 1.2. The Applicant separately lodged an application for an eviction order.
- 1.3. The Applicant lodged the lease dated 9<sup>th</sup> February 2018, a rent statement, and an invoice from *Orbis* in respect of repairs to the property dated 7<sup>th</sup> June 2018, together with evidence of payment of said invoice by the Applicant.
- 1.4. The Tribunal fixed a Case Management Discussion in respect of both cases for 20<sup>th</sup> December 2018, and this was intimated to parties. The Respondent was served with the letters informing her of the date for

the Case Management Discussion, together with the aforementioned documents, by Sheriff Officer. The Respondent was advised that written representations in response to the applications were to be lodged by 13<sup>th</sup> December 2018. No responses have been received. The Respondent was also informed that she required to attend the Case Management Discussion, and that the Tribunal could at the Case Management Discussion make any decision on the application that could be made at the full Hearing, if the Tribunal had sufficient information and considered that the procedure had been fair.

## 2. The Case Management Discussion

- 2.1. The Applicant was represented by Ms Amanda Black, Solicitor.
- 2.2. By 1400 hours the Respondent had failed to attend at the venue. The Tribunal delayed in calling the Case Management Discussion, in order to allow extra time for the Respondent to attend, in the event that she was running late. The Respondent failed to attend the Case Management Discussion and did not contact the tribunal to explain her absence.
- 2.3. The Applicant invited the Tribunal to proceed in the absence of the Respondent, and to grant both orders. The Applicant confirmed that the Respondent had not made contact with the Applicant in advance of the Case Management Discussion.
- 2.4. The Tribunal was satisfied that the Respondent had wilfully failed to attend the Case Management Discussion, and that it was fair to proceed in her absence.
- 2.5. The Applicant confirmed that there had had been no further rent payments since the application had been lodged. The Applicant sought to amend the sum sued for to £4,250, which reflected rent outstanding at the date of the Case Management Discussion.
- 2.6. The Tribunal proceeded on the basis of the written documents which had previously been lodged, together with oral submissions from the Applicant in respect of those documents.

## 3. Findings in Fact

- 3.1. The Applicant and the Respondent entered into a tenancy agreement on 9<sup>th</sup> February 2018, with the start date of the lease being 9<sup>th</sup> February 2018.
- 3.2. The rent payable was £425 per calendar month.

- 3.3. The Respondent made one rent payment, on 18<sup>th</sup> April 2018. The Respondent made no further rent payments in respect of the property.
- 3.4. On 4<sup>th</sup> June 2018 there was an incident at the property which required the attendance of police officers. The door to the property was damaged during the course of the police response.
- 3.5. The cost of repairing the damaged door was £162.13. Said £162.13 was paid by the landlord.
- 3.6. On 3<sup>rd</sup> August 2018 a Notice to Leave was served on the Respondent, indicating that the possession of the property was required by 8<sup>th</sup> September 2018.
- 3.7. The Respondent did not vacate the property.
- 3.8. On 20<sup>th</sup> December 2018 the amount of the rent arrears was £4,250.

#### 4. Reasons for Decision

- 4.1. There was nothing before the Tribunal challenging or disputing any of the evidence before it.
- 4.2. The Tribunal accepts that the sum of £425 per calendar month is due to the Applicant under the terms of the lease and that the Respondent is in rent arrears of £4,250.
- 4.3. The lease provides that the Respondent is liable to pay the cost of repairing damage to the property where the need for those repairs is attributable to her fault or negligence or that of a person residing with her, or that of her guest. The Tribunal accepts that the damage to the property door on 4<sup>th</sup> June 2018 was attributable to the fault or negligence of the Respondent or her guest. Accordingly the Tribunal accepts that the sum of £162.13 is due to the Applicant.

#### 5. Decision

- 5.1. The Tribunal granted the Applicant's motion to amend the sum sued for to £4,250 to reflect rent outstanding at the date of the Case Management Discussion. The Respondent had not been provided with an up to date rent statement, however the application specified that the order sought was outstanding rent together with monthly rental for such time that the Respondent continued to live in the property. The Tribunal considered that the Respondent had been given fair notice of sum which would be sought.

- 5.2. The Tribunal refused the Applicant's motion to amend the sum sued for to include the sum from today's date to the date of eviction. Such amendment assumed that the Respondent would make no future payment in respect of rent due and was accordingly speculative.
- 5.3. The order for payment in in the amended sum of £4,250, in respect of rent arrears, together with £162.13, in respect of repairs, is granted.

### **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.**

L MacDonald

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**Legal Member**

20/12/15  
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**Date**