

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 Rule 70 the First – tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Amendment Regulations 2017.

Chamber Ref: FTS/HPC/CV/18/0180

Re: Property at G/1, 15 Baffin Street, Dundee, DD4 6HB (“the Property”)

Parties:

Mr Richard Howie, Craigallichie Cottage, West Galcantray, Cawdor, Inverness, IV12 5XX (“the Applicant”)

Mr Scott McCafferty, G/1, 15 Baffin Street, Dundee, DD4 6HB (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of ONE THOUSAND SEVEN HUNDRED AND FIFTY POUNDS (£1750) STERLING. The order for payment will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

- 1. By application dated 22 January 2018, the Applicant applied to the First-tier Tribunal from Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears against the Respondent relating to a tenancy at G/1, 15 Baffin Street, Dundee, DD4 6HB.**

2. On 23 February 2018 the Tribunal enclosed a copy of the Application and invited the Respondent to make written representations to the application by 13 March 2018. The Tribunal advised both parties on 23 February 2018 that a Case Management Discussion under Rule 17 of the Regulations would proceed on 28 March 2018. This paperwork was served on the Respondent by Walker Love, Sheriff Officers, Kirkcaldy on 26 February 2018 and certificate of execution of service was received by the Tribunal administration.
3. The Respondent made written representations through his representative Dundee North Law Centre on 13 March 2018.

Case Management Discussion

4. The Tribunal proceeded with the Case Management Discussion on 28 March 2018. The Applicant was represented by Mr Forsyth, Messrs Muir, Myles, Lavery. There was no appearance by Dundee North Law Centre for the Respondent. The Respondent did not appear in person.
5. Mr Forsyth explained to the Tribunal that his office had received a fax late in the afternoon on 27 March 2018 from Dundee North Law Centre to explain that neither they nor the Respondent would be attending the Case Management Discussion; the Respondent had secured alternative accommodation and did not dispute the claim.
6. The Tribunal had before it a statement for the Respondent which showed how the rent arrears had accrued. However there was also reference on that statement to arrears from a previous tenancy of £108 and transfer of £200 to TDS (Tenancy Deposit Scheme). After enquiry by the Tribunal and after a short adjournment Mr Forsyth advised that he was not insisting on payment of either of these two amounts. He also advised that the Respondent had made a payment of £350 on 22 March 2018 and that the arrears had increased to £2408, which figure did not include the sums relating to the previous tenancy or TDS.

Findings in Fact

1. The Applicant and the Respondent agreed by way of a Tenancy Agreement dated 4 August 2017 in relation to the Property that the Respondent would pay the Applicant a calendar monthly rent of £350.
2. The Respondent has fallen into arrears of rent.
3. The Respondent made a payment to account on 22 March 2018 of £350.
4. Arrears of rent at the date of the Case Management Discussion were £2408.

5. Arrears of rent at the date of application under deduction of £308 being £108 arrears under a previous tenancy and £200 relating to a deposit amounted to £1750.

Reasons for Decision.

The Applicant provided evidence of non-payment of rent in the form of a rent statement. The Respondent's representative confirmed in a fax that the claim was not disputed. The Tribunal is satisfied that the Respondent is in arrears of rent in the sum of £1750.

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.

Shirley Evans

~~Legal Member/Chair~~

Date

28 March 2018