



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 Housing (Scotland) Act
2014**

Chamber Ref: FTS/HPC/EV/20/0251

Re: Property at 35 Maitland Hogg Lane, Kirkliston, EH29 9DU (“the Property”)

Parties:

Mr Connor Lindsay, Thorncroft, Blainslie, Galashiels, TD1 2PR (“the Applicant”)

Mr Thomas William Clark, Mrs Rachel Clark, Mrs Essie Little, 35 Maitland Hogg Lane, Kirkliston, EH29 9DU; 35 Maitland Hogg Lane, Kirkliston, EH29 9DU; 35 Maitland Hogg Lane, Kirkliston, EH29 9DU (“the Respondents”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £8910 should be made in against the Respondents in favour of the Applicant.

Background

1. By application received on 23 January 2020 the Applicant seeks a payment order against the Respondents. A copy tenancy agreement, bank statements and a rent account showing a balance due of £8910 were lodged with the application.
2. The application and supporting documents were served on the Respondents by Sheriff Officer on 26 February 2020. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 30 March 2020. As a result of Government restrictions due to coronavirus, the CMD was postponed. On 15 June parties were advised that the CMD would now take place by conference call on 13 July 2020 at 2pm. Parties were provided with a telephone number and passcode. The Respondents were notified by recorded delivery

post which was successfully delivered by Royal Mail.

3. On 6 July 2020 the second Respondent sent an email to the Tribunal requesting a postponement of the CMD. She advised that she had Covid 19 symptoms and was due to be tested. She also advised that the other Respondents could not take part either, due to mental health problems on the part of the first Respondent, and health and bereavement issues on the part of the third Respondent. The request was opposed by the Applicant who advised that no rent was being paid and that the second Respondent had time to recover from her symptoms before the CMD took place. The second Respondent submitted further emails in support of the request and a short letter from her GP was received. This confirmed the information previously provided – that the second Respondent possibly had covid 19, felt unwell and had to self-isolate, and that due to mental health problems and bereavement, the other Respondents may not be able to participate on their own. No explanation was given for the conclusion reached by the GP in relation to a CMD which was taking place by conference call. Furthermore, no information was provided as to when the Respondents would be in a position to participate. The Legal Member noted that the Respondent had time to recover from her symptoms (between the date of the request and the date of the CMD) and that parties were participating remotely, not in person. The request was refused.
4. The application called for a CMD on 13 July 2020 at 2.15pm. A related application under Chamber Reference FTS/HPC/EV/20/0250 also called. The Applicant participated. None of the Respondents participated. They did not contact the Tribunal in advance of the CMD to advise that they would not be participating, or lodge written submissions regarding the application. The Tribunal administration attempted to contact the second Respondent on the phone number she had provided but was unsuccessful.

Case Management Discussion

5. The Applicant advised the Legal Member that the Respondents remain in occupation of the property. He confirmed that he was seeking a payment order. He advised that the Respondents have paid no rent since February 2019 and that the total outstanding is now £13, 770. However, as he did not lodge an updated rent statement or seek an amendment of the sum claimed in advance of the CMD, he advised that he was only seeking an order for £8910, being the sum specified in the application which had been served on the Respondents.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondents are the tenants of the property in terms of a private residential tenancy agreement dated 23 October 2018.

8. The Respondents are due to pay rent at the rate of £810 per month
9. The Respondents have incurred rent arrears of £8910.
10. The sum of £8910 is due and owing to the Applicant.

Reasons for Decision

11. The Legal Member proceeded to consider the application, the documents lodged, and the information provided at the CMD by the Applicant. The tenancy is a private residential tenancy which commenced on 23 October 2018. The rent due in terms of the tenancy agreement is £810 per calendar month. The Respondents have made no payments of rent since February 2019. The sum of £8910 was outstanding at the date the application was lodged with the Tribunal and remains outstanding. The Legal Member is satisfied that an order for payment in the sum of £8910 should be made in favour of the Applicant.

Decision

12. The Legal member determines that an order for payment in the sum of £8910 should be made against the Respondents.

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. B

Josephine Bonnar, Legal Member

13 July 2020