

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(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/18/0121

Re: Property at 7 Buchan Braes, Station Avenue, Boddam, Peterhead, AB42 3PW ("the Property")

Parties:

Mr Mark Watson, Mallards, Gracious Pond Road, Chobham, Surrey ("the Applicant")

Miss Dawn Ricketts, Backhill of Meikle Folla, Rothienorman, Aberdeenshire, AB51 8UY ("the Applicant's Agent")

Miss Shannon Craig, Mr Ickey McDonald, Flat C 58 Baker Street, Aberdeen, AB25 1UT ("the Respondents")

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined to make an order for payment in the sum of One thousand five hundred and eighteen pounds and thirty five pence against the Respondents

Background

- 1 By application dated 15th January 2018 the Applicant sought an order for payment of outstanding rent arrears against the Respondents. In support of the application the Applicant submitted the following documents:-
 - a. Tenancy Agreement between the Applicant and the Respondents dated 27 January 2017;
 - b. Rent Statement from 16 January 2017 to 8 January 2018;
 - c. Itinerary signed by both parties dated 31st January 2017;

- d. Payment Plan between the Applicant and Respondents dated 25th September 2017 confirming an agreement of £100 per week by standing order;
 - e. Letter from the Respondents dated 5 October 2017 given notice to terminate the tenancy as at 23rd October 2017.
 - f. Letter from the Respondents dated 19 October 2017 offering payments of £100 per week with the exception of every fourth week and a payment of £150 every fifth week;
 - g. Notice of damaged items from the Respondents dated 19 October 2017;
 - h. Letter from the Respondents, undated;
- 2 By Notice of Acceptance of Application, the Legal Member with delegated powers of the Chamber President intimated that there were no grounds for rejection of the application. A Case Management Discussion was therefore assigned for 29th May 2018. Sheriff Officers attempted service of the application on the Respondents however were unable to do so due to the Respondents having vacated the given address. Accordingly the Case Management Discussion was postponed to allow for the Respondent's new address to be ascertained and the application served thereafter.
- 3 A copy of the application together with supporting documentation and notification of the Case Management Discussion was served on each Respondent by Sheriff Officers on 1st October 2018 following confirmation of their residence at Flat C, 58 Baker Street, Aberdeen.

The Case Management Discussion

- 4 The Case Management Discussion took place at the Credo Centre on 18th October 2018. The Applicant's Agent attended and was accompanied by Mr Bill Edward.
- 5 As a preliminary matter the Tribunal clarified with the Applicant's Agent that the owner and landlord of the property was Mark Watson and that he had purchased the property in late 2016. Evidence had been submitted to Tribunal from the instructed solicitor in this regard. She had been authorised to enter into the Tenancy Agreement on the landlord's behalf. The Tribunal agreed to allow the application to be amended to reflect the correct designations for the parties.

Findings in Fact

- 6 The Applicant's Agent being duly authorised by the Applicant entered into a Tenancy Agreement with the Respondents dated 27 January 2017 in respect of the Property.
- 7 In terms of Clause 2 of the said Tenancy Agreement the Respondents undertook to pay rent of £795 per month.
- 8 On 5th October 2017 the Respondents gave notice to terminate the tenancy.

- 9 The termination date of the tenancy was 23rd October 2017. As at the date of termination rent arrears in the sum of £1518.35 were outstanding.
- 10 On 25 September 2017 the Respondents agreed a payment plan in respect of the arrears due. On 19th October 2017 the Respondents proposed an alternative arrangement. The Respondents have failed to make payment.
- 11 The Respondents are in arrears of rent lawfully due in the sum of £1,518.35.

Reasons for Decision

- 12 Having considered the verbal and written representations from the Applicant the Tribunal was satisfied at the Case Management Discussion that it was able to make sufficient findings to determine the case without a hearing and that to do so would not be prejudicial to the interests of the parties. The Tribunal was satisfied that the Respondents had received proper notification by virtue of service of the papers by Sheriff Officers. They had not sought to dispute the terms of the application and had not taken the opportunity to attend the Case Management Discussion.
- 13 The Tribunal accepted based on its findings in fact that arrears of rent in the sum of £1,518.35 were lawfully due by the Respondents by virtue of the terms of the Tenancy Agreement between the parties and the rent statement produced by the Applicant's Agent. The Respondents had effectively accepted liability for the outstanding arrears by agreeing payment plans which had not been honoured. The Tribunal as therefore satisfied that the Respondents were due to pay the sums sought and determined to make an order for payment in the sum of £1,518.35.

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.

R O'Hare

 Legal Member/Chair

18/10/18

Date