

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) Act 2016 (“the Act”)

Chamber Ref: FTS/HPC/CV/22/0530

Re: Property at 67B Rose Street, Aberdeen, AB10 1UH (“the Property”)

Parties:

Miss Isabel Davies, 5/2 Liddesdale Place, Edinburgh, EH3 5JW (“the Applicant”)

Mr Liam Farquhar, 67B Rose Street, Aberdeen, AB10 1UH (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatridge (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the amount of £930.14 of rent arrears from the Respondent to the Applicant should be granted.

A Background

This is an application for payment of outstanding rent lodged with the Tribunal on 23 February 2022 in terms of S 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) and Rule 111 of the Procedure Rules.

The Applicant had lodged the following documents in evidence:

- a) the Private Residential Tenancy Agreement (PRT) for the property commencing 3 January 2020
- b) Statement of Account up to and including 18 February 2022

A Case Management Discussion (CMD) was scheduled for 13 May 2022. The Respondent was notified of the application and the CMD date and manner of joining through service by Sheriff Officers effected on 24 March 2022. The Tribunal was satisfied that sufficient and correct notice of the CMD and application details had been given to the Respondent.

B The Case Management Discussion

The Applicant attended the telephone conference. The Respondent did not attend.

She explained that there had been no further payments of rent from the respondent and the amount outstanding was now actually £2,205.15, however she appreciated that as this had not been previously intimated she would limit the order she was seeking to the original amount stated in the application, which still remained outstanding. The Respondent had previously agreed a payment plan, which he then did not comply with. There had been no recent contact from him.

There were no written representations from the Respondent in the case.

C Findings in Fact

Based on the documents submitted and the information provided at the CMD in the case the Tribunal is satisfied that the following facts have been evidenced:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the property commencing on 3 January 2020. (Clause 6)
2. Rent of £425 per calendar month was payable on the last day of the month in advance for the following month (Cause 8).
3. The tenancy is ongoing
4. As at 18 February 2022 the outstanding rent arrears were £930.14.
5. Since then no further payments had been made and the sum remained outstanding at the date of the CMD.
6. A previous payment plan had failed.
7. No rent had been paid at all since 10 January 2022.

D Reasons for decision

1. Applicable rules: Rule 17 of the Rules of Procedure:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

(c) raising with parties any issues it requires to be addressed;

(d) discussing what witnesses, documents and other evidence will be required;

(e) discussing whether or not a hearing is required; and

(f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

Rule 18 of the Rules of Procedure:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

2. The documents lodged are referred to for their terms and held to be incorporated herein. The Tribunal makes the decision on the basis of the documents lodged by the Applicant and the information given at CMD.

3. The Tribunal did not consider that there was any need for a hearing as there had been no defence lodged by the Respondent and the application had not been opposed. In terms of Rule 18 of the Rules of Procedure the Tribunal is satisfied that it is not contrary to the interests of the parties to make a decision at the CMD and that the information available in document form and from the Applicant at the CMD allows sufficient findings to determine the case.

4. The Respondent had fair notice of the representations of the Applicant forming the reasons for the application and the arrears as set out in the Statement of Account and had not challenged these. The facts of the case are thus not in dispute.

5. The Tribunal is satisfied that the Respondent had entered into a Private Residential Tenancy Agreement with the Applicant for the property and had failed to make the necessary rental payments as shown in the Statement of Account lodged. The Respondent had not put forward any reason why the rent should not be due. The Tribunal is satisfied that the rent arrears stated in the application remaining outstanding on the date of the CMD.

6. The Applicant is entitled to a payment order for the sum of £930.14 for the rent arrears for the rental period up to and including 18 February 2022.

E Decision:

The Tribunal grants the order for payment of the amount of £930.14 by the Respondent to the Applicant.

F 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.

Petra Hennig McFatridge
Legal Member/Chair

13 May 2022
Date