



**Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 (“the 2014 Act”) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)**

**Chamber Ref: FTS/HPC/CV/CV/19/1460**

**Re: Property at 34 Rankeillor Street, Edinburgh, EH8 9HZ  
 (“the Property”)**

**The Parties:**

**Mr Joshua Rodrigues, Flat 28, 7 Simpson Loan, Edinburgh, EH3 9GU  
 (“the Applicant”)**

**Mr James Ledingham, present whereabouts unknown, previously residing at  
 34 Rankeillor Street, Edinburgh, EH8 9HZ  
 (“the Respondent”)**

**Tribunal Member:**

**Susanne L. M. Tanner Q.C. (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for payment should be made requiring the Respondent to pay to the Applicant the sum of ONE THOUSAND AND FORTY FOUR POUNDS AND FIFTY PENCE (£1044.50) STERLING**

## **1. Procedural background**

1.1. On 14 June 2019, the Applicant made an application (“the Application”) to the tribunal.

1.2. The following documents were attached to the Application:

1.2.1. A copy of a sub letting agreement between the parties dated 25 February 2019;

1.2.2. Bank statements with highlighted entries showing payments from the Respondent between 12 January 2019 and 10 May 2019.

1.3. On 22 May 2019, the Application was accepted for determination by the tribunal.

1.4. By letter of 6 June 2019, the tribunal notified the parties that the Application had been referred to the tribunal and that a Case Management Discussion had been fixed for 12 July 2019. Parties were advised that the tribunal may do anything at a Case Management Discussion which it may do at a hearing, including making a decision on the application. Parties were advised that if they do not attend the Case Management Discussion, this will not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was invited to submit any written representations he wished by 24 June 2019.

1.5. Service on the Respondent by Sheriff officers of the Application documentation and notice of the CMD was unsuccessful and the CMD was cancelled.

1.6. A new CMD was fixed for 7 August 2019. The tribunal served notification on the Respondent by advertisement on the tribunal's website. The Applicant appointed a representative, Mrs Johal, due to a prior University examination commitment. The Application was amended to proceed under Rule 111. The Applicant's Representative was unable to say when the Respondent had left the Property. The tribunal continued the CMD to allow production of a rent statement detailing the period of the Respondent's occupation of the Property, the rent due and payments made, as well as confirmation of the Landlord's consent to the Applicant sub-letting the Property. A Direction under Rule 16 was issued to that effect. Reference is made to the CMD Note dated 7 August 2019.

1.7. A further CMD was fixed for 26 September 2019 at 1130h and the tribunal proceeded with service by advertisement. The notification served on the Respondent on the tribunal's website between 19 August 2019 and 26 September 2019.

1.8. On 27 August 2019, the Applicant submitted information in response to the tribunal's Direction, namely:

1.8.1. A tenant ledger for the Respondent showing rent arrears as at 7 May 2019 of £1044.50;

1.8.2. A notarised sworn statement from Jack McGlone of 1 Newark Street, Greenock, Paisley, PA16 7UH, stating that he was present when the Respondent was packing his belongings and moving out on 31 May 2019;

1.8.3. Confirmation dated 24 January 2019 that the Landlord agreed to the sublet and provided the subletting agreement.

1.9. The Tribunal issued further Directions on 3 September 2019 requesting (1) a revised tenant ledger showing the running total of rent arrears and (2) any amendment to the sum sought to be intimated in writing no later than 14 days prior to the CMD.

1.10. On 10 September 2019 the Applicant submitted a revised tenant ledger showing rent arrears as at 7 May 2019 of £1044.50; and a request to amend the sum claimed to £1044.50 (in place of £1043.50).

1.11. The Respondent did not submit any written representations or make any contact with the tribunal.

## **2. CMD – 26 September 2019 at 1130h at George House, 126 George Street, Edinburgh, EH2 4HH**

2.1. The Applicant attended the CMD.

2.2. The Respondent did not attend the CMD. The tribunal was satisfied that the requirements of Rule 24(1) regarding the giving of notice of a hearing have been duly complied with and proceeded with the application upon the representations of the Applicant and all the material before it.

2.3. The Applicant stated that he was seeking rent arrears. £1044.50 as per the request to amend dated 10 September 2019. The tribunal allowed the Applicant to amend the sum claimed to £1044.50.

2.4. The applicant explained that he had advertised for somebody to move in and take his place for the duration of the tenancy. The Applicant remained liable to the landlord for the rent with the four other tenants. In terms of the

sub-letting agreement with the Respondent, which was provided by the letting agent, the Respondent stepped into the position of the Applicant for the duration of the tenancy with the other joint tenants. The Respondent's sub-tenancy began on 31 January 2019. The first payment of £600 was due on 28 January 2019 and was late, and £1 short. The second payment of £600 was due on 28 February 2019 but was late and £50 short. The third payment of £600 was due on 28 March 2019 but the Respondent only paid £6.50. The fourth payment of rent was due on 28 April 2019 but was late and the Respondent only paid £200. The payment due and payments made are shown on the revised tenant ledger and the bank statements. The balance of arrears as at 7 May 2019 was £1044.50.

- 2.5. The Applicant was initially in communication with the Respondent over FB messenger. The Respondent told the Applicant at the time that he did not have enough money to pay the rent. The Applicant said that he could make weekly payments. The Respondent was in employment. At the same time the Applicant was told that the Respondent was booking holidays to Venice. Following that he blocked the Applicant on Facebook. The Respondent blocked a few of the Applicant's previous flatmates on Facebook as well. The Applicant has not seen the Respondent personally in relation to the rent arrears or when he moved out. The Respondent left at the end of May 2019. There is a sworn statement from a witness who speaks to him moving out. That is the last time that the flatmates saw him. The Applicant and the other tenants terminated the PRT at the end of May 2019. The Applicant made payments to the landlord in terms of the PRT. He paid the rent in advance because he is an international student and does not have a UK guarantor.

### **3. Discussion**

- 3.1. The tribunal was satisfied that the Respondent owed the Applicant £1044.50 by way of rent arrears in terms of the sub letting agreement for the Property dated 25 January 2019 and decided to make an order for payment by the Respondent to the Applicant the sum of £1044.50.
- 3.2. The tribunal chair informed the Applicant that the Payment order could be enforced by the Applicant against the Respondent after the expiry of the permission to appeal period.

**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.

Susanne Tanner

26 September 2019

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Susanne L M Tanner Q.C.  
Legal Member/Chair