



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 32 of the Housing (Scotland)
Act 1988**

Chamber Ref: FTS/HPC/CV/18/1939

**Re: Property at 1 High Auldgirth, Auldgirth Estate, Dumfries, DG2 0XJ (“the
Property”)**

Parties:

**Mr. David Matthews and Mrs. Claire Matthews, High Auldgirth Estate, The
Estate Office, Ulzieside, Sanquhar, DG4 6LA (“the Applicant”)**

**Mr Raymond Carl Jones, 19 Buccleuch Crescent, Thornhill, DG3 5AW (“the
Respondent”)**

Tribunal Members:

Susan Christie (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. The Application is for payment of a sum of money equating to unpaid rent, arising out of a Short Assured Tenancy between the Parties. It was received by the Tribunal on 30 July 2018.
2. A Notice of Acceptance of the Application is dated 14 September 2018.
3. The Application type is stated to have been made under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Rules of Procedure 2017 (“the Rules”).
4. On 23 October 2018 the Parties were written to intimating that a Case Management Discussion was to be held on 14 November 2018 at 2pm in Lochvale House, Georgetown Road, Dumfries, DG1 4DF which they were required to attend. Intimation on the Respondent being by Sheriff Officer letterbox service on 23 October 2018.
5. Written Responses were due by 9 November 2018.

6.

The First Case Management Discussion

7. The Case Management Discussion ("CMD") took place on 14 November 2018 at 2pm in Lochvale House, Georgetown Road, Dumfries, DG1 4DF.
8. The Applicant was represented by Mr Nick Wright of Stanley Wright Ltd, The Estate Office, Ulzieside, Sanquhar, DG4 6LA and had also brought an observer, Miss Emma Ewing. The Respondent was not present. I was satisfied that he had received proper intimation of the CMD as intimation was made by Sheriff Officer on 23 October 2018 by way of personal service. I proceeded in his absence.
9. No written Representations had been submitted by the Respondent.
10. The purpose of the CMD was explained to the Applicant including reference to the Rules and the fact that the Tribunal had to have regard to the overriding objective of fairness to both Parties.
11. This Application is for payment of a sum of money equating to the balance of unpaid rent for a specified period between 15 June 2017 and 15 January 2018 and for contractual interest under Clause 2.1(c) of the Short Assured Tenancy produced.
12. The Application proceeded under the name of High Auldgirth Estate, Mr Charles Thomas Kennedy Matthews.
13. Under the lease, which is the contract relied upon, the Landlords are stated as Mr David & Mrs Claire Matthews. This coincides with the Landlord Registration record for the Property. I understood from the Applicant's Representative that they are also the registered owners.
14. The Application therefore required to be amended to reflect the correct Applicant details. I was asked to allow opportunity for that to be done which I agreed to do under Rule 32. It was clear that a fresh Mandate by the Landlords in favour of the Applicant's Representative was also required.
15. I then raised the other preliminary matters that also needed to be considered.
16. A Deposit of £400 had been taken and secured with Safe deposits Scotland. I enquired as to whether this was to be credited towards unpaid rent or not. Documentation showing the position should be produced to the Tribunal.
17. I also suggested that a copy of the e mail exchange between the Parties relating to unpaid rent could be produced.
18. Finally, it was noted that contractual interest on unpaid sums of rent due was sought in line with Clause 2.1 (c), (as opposed to judicial interest which the Rules have no provision for). Evidence was needed to show the relevant base rate of the Bank of Scotland to determine the rate sought as the base rate plus 5%, the calculation of what is sought and from when and this copied to the Respondent to give an indication of what was sought.
19. I took the view that as the Application form needed to be amended and submitted, intimated on the Respondent and further documentary evidence was required over and above that lodged to enable the Tribunal to decide on the Application. The CMD was adjourned.
20. This would also allow for the documents to be passed to the Respondent by way of giving him fair notice of the correct Applicants and documentation on which the Applicant seeks to rely at the CMD and to enable him in turn to consider his position.

Reasons for Decision & Decision

32. The contractual terms of the SAT entitle the Applicant to recover from the Respondent unpaid rent due. As at 26 November 2018 the sum due and outstanding is £1200 and I was satisfied that the paperwork produced evidenced the debt due.

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.

Susan Christie

Legal Member/Chair

17 December 2018

Date