



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71 Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/21/0738

Re: Property at 232 Stoneywood Brae, Aberdeen, AB21 9FA (“the Property”)

Parties:

Crucible Residential Properties Ltd, 1 Curzon Street, London, W1J 5HD (“the Applicant”)

Mr Barry Anderson, Address Unknown (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £ 1770 should be granted against the Respondent in favour of the Applicant.

Background

1. By application dated 23 March 2021 the Applicant seeks a payment order in relation to unpaid rent and a Sheriff Officers fee for tracing the Respondent. A copy tenancy agreement, rent statements and correspondence were lodged in support of the application.
2. The Tribunal attempted to serve the application at the address identified by the Applicant’s tracing agent. However, service was unsuccessful, as the address did not appear to exist. The Tribunal proceeded to serve the application by advertisement on the Tribunal website between 3 June and 12 July 2021. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 12 July 2021 at 10am by telephone case conference and that they were required to participate. They were provided with a telephone number and passcode.

3. The CMD took place at 10am on 12 July 2021. The Applicant was represented by Ms Duncan. The Respondent did not participate and was not represented. Ms Duncan advised the Legal Member that there had been no recent contact with the Respondent and no payments had been received. She confirmed that a payment order was sought for the arrears of rent and the Sheriff Officers trace report fee. The Legal Member asked Ms Duncan to clarify the legal basis for the trace fee. Ms Duncan confirmed that there was no specific agreement between the parties that the Respondent would be liable for such a charge, either in the tenancy agreement or elsewhere. The charge had been incurred because the Respondent failed to provide a forwarding address.
4. The Legal Member asked for clarification of the rent arrears. The sum specified in the application form is £1170. However, the supporting documents appear to indicate that the total arrears due at the end of the tenancy were £2100. Ms Duncan confirmed that the Applicant had recovered the whole deposit from Safe Deposit Scotland of £1140. £810 of this had been applied to damage and re-instatement costs at the property. The remainder was applied to the arrears. The Legal Member noted that this calculation appeared to indicate that the rent arrears amounted to £1770 rather than £1170. Ms Duncan confirmed that this is the case and that the figure in the application form is incorrect. She advised the Legal Member that she wished to amend the application to the correct figure of £1770. The Legal Member granted the request and allowed the application to be amended. Thereafter, the Legal Member determined that the CMD should be continued to allow the amended application to be served on Respondent by advertisement on the Tribunal website.
5. The application was served by advertisement on the Tribunal website from 27 July 2021 to 31 August 2021. The parties were notified that a further CMD would take place by telephone conference call on 31 August 2021 at 10am. The CMD took place on this date and time. The Applicant was represented by Ms Valiukaite. The Respondent did not participate.

Case Management Discussion

6. Ms Valiukaite advised the Legal Member that there has been no contact from the Respondent and no payments to the arrears. She confirmed that the sum of £1770 is still outstanding and that a payment order is sought in relation to same. She also advised that she would withdraw the claim for the trace report fee as she is unable to show that there is legal basis for this.

Findings in Fact

7. The Applicant is the owner and landlord of the property.
8. The Respondent was the tenant of the property in terms of a private residential tenancy dated 4 October 2019. The tenancy ended on 3 September 2020.
9. The Respondent was due to pay rent at the rate of £760 per month.

10. The Respondent owes the sum of £1770 in unpaid rent to the Applicant.

Reasons for Decision

11. The application was submitted with a private residential tenancy agreement and a rent statement. In terms of the tenancy agreement rent was due to be paid at the rate of £760 per month. The Respondent notified the Applicant that he had vacated the property on 18 August 2020, without giving the 28 days notice specified in the tenancy agreement. The Applicant terminated the tenancy on the 3 September 2020. The Respondent owed the sum of £2100 in unpaid rent at this date. The Applicant recovered the tenancy deposit of £1140 from the tenancy deposit scheme. £810 of this was applied to the cost of re-instating the property, because of damage caused by the Respondent. The remainder was applied to the rent arrears, leaving a balance due of £1770. There has been no contact from the Respondent, and he has made no payments to the sum which is still outstanding. The Legal Member is satisfied that the Applicant is entitled to a payment order for this sum.

Decision

12. The Legal Member determines that an order for payment for the sum of £1770 should be made.

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 Bonnar

Josephine Bonnar, Legal Member

31 August 2021