



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising from a tenancy under Section 32 of the Housing (Scotland) Act 1988
Chamber Ref: FTS/HPC/CV/19/3974**

Re: Property at 19 Westercrofts, Biggar, ML12 6DX (“the Property”)

Parties:

Mr Gary Watkins, Ms Lorraine Watkins, 109-111 High Street, Biggar, ML12 6DL (“the Applicants”)

Mrs Sandra Harvey, 2 Knockside, Biggar, ML12 6EH (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member)

Decision (in absence of the Parties)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for payment be made requiring the Respondent to pay to the Applicant’s the sum of One Thousand Seven Hundred and Thirteen Pounds and Seventy Pence (£1713.70) Sterling

Background

1. The Application is for payment of a sum of money equating to unpaid rent under Rule 70. It relates to a tenancy for the Property at 19 Westercrofts, Biggar ML12 6DX.
2. This Application was received by the Tribunal on 11 December 2019. It was accepted by the Tribunal on 16 December 2019.
3. The Application was accompanied by a copy of the tenancy agreement and accompanying papers, copy rent account, rental increase letters and reminder letters sent to the tenant for alleged unpaid rent.
4. A further updated rental statement to 22 January 2020 showing an unpaid rent balance of £1713.70 and a quotation for locks replacement was sent into the Tribunal by e mail on 22 January 2020. The intention was to cross this over to the Respondent which it later was.

Case Management Discussion (CMD)-29 January 2020 at 2pm in Glasgow Tribunals Centre, Room 111, 20 York Street, Glasgow, G2 8GT.

5. The Applicant Mr Gary Watkins attended personally and was in addition representing his wife, the second Applicant. There was no appearance by or on behalf of the Respondent.
6. Prior to the CMD commencing it had come to the attention of the Legal Member that a separate application for recovery of possession of the Property had been made to the Tribunal and was concluded with a Decision on 22 January 2020. In that Application the Applicants had intimated to the Tribunal on 20 December 2019 a further address for the Respondent of 2 Knockside, Biggar.
7. The Respondent's copy of the Application and accompanying documentation were purportedly served by Sheriff Officers on 31 December 2019 by way of letterbox service at the Property.
8. Unfortunately, the second address for the Respondent had not been crossed over to this Application. It appeared that the Respondent had moved out and may now be living at the new address given. Accordingly, I was not satisfied that proper intimation of this Application had been made on the Respondent in line with Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.
9. The CMD was continued for this Application to be intimated on the Respondent at both given addresses. In addition, given that the Applicants wished to formally amend the sum sought, this allowed them the opportunity to make a formal request in writing for this to be done prior to the next CMD. This was ensuring that the overriding objective is met, and the procedure is fair.

Further Case Management Discussion (CMD) at 10am on 11 March 2020 within Room 111, Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT.

10. Neither Party appeared. The Applicants had verbally advised the Tribunal on the last occasion that they were unlikely to be attending but were content to have the Decision made in their absence.
11. On 31 December 2019 the Application and supporting documentation was served on the Respondent at both addresses, with a letter to her telling her of the date, time and place of the CMD to be held. I was satisfied that proper intimation had been made on her and proceeded in the Parties absence.
12. I noted that the Respondent was invited to make written representations by 29 January 2020. None were lodged.
13. I considered the Application and all supporting paperwork.
14. I noted that an application to the Tribunal had been made by the Applicants on 2 February 2020 to increase the sum sought to a figure of £1713.70 of rent due and an additional £80 for the cost of a lock change. This totalled £1793.70.
15. The short assured tenancy agreement (SAT) between the Parties commenced on 10 July 2013 to 10 January 2014 and monthly thereafter. The rent being £425 per calendar month payable on 10th of the month in advance.

- The rent was increased from time to time by agreement and more recently to £500 per calendar month from October 2018.
16. The SAT also provided at part 3(b) for a deposit to be taken of £525 on the date of entry. The tenancy agreement has a section which deals with 'Deposit Liabilities'. It set out recharge costs for a variety of matters. It has a section 'Keys-Failure to return' and provides for deduction from the deposit sums of £15 per key where the keys are not returned in full at the termination of the tenancy.
 17. I noted that there was signed information sheets which related to the deposit and the holding scheme, where it was to be held and relating to the keys being returned at the end of the tenancy, otherwise this will delay the return of the deposit.
 18. The updated rent statement to 22 January 2020 showed an unpaid rent balance of £1713.70.
 19. I noted that a separate application for recovery of possession of the Property had been made to the Tribunal and was concluded with a Decision on 22 January 2020.

Findings in Fact

- I. A Short Assured Tenancy (SAT) was entered into between the Parties for the Property and commenced on 10 July 2013 until 10 January 2014 and continued on a monthly basis thereafter until terminated.
- II. The rent initially due under the SAT was £425 per calendar month payable on 10th of the month in advance.
- III. The rent was increased from time to time by agreement between the Parties and more recently was fixed at £500 per calendar month from October 2018.
- IV. A deposit was taken of £525 on the date of entry. It was to be placed in a holding scheme.
- V. The tenancy agreement specifically sets out 'Deposit Liabilities'. It sets out the recharge costs for section 'Keys-Failure to return' and provides for deduction from the deposit sums of £15 per key where the keys are not returned in full at the termination of the tenancy.
- VI. The Applicants are not entitled to recover sums sought for a lock change in this Application, as any sums due were to be paid out of the deposit.
- VII. The unpaid rent balance due up to 22 January 2020 is £1713.70.
- VIII. The last rent was due to be paid on 10th January 2020 in advance.
- IX. The SAT ended sometime after 22 January 2020 when in a separate application to the Tribunal for recovery of possession of the Property a Decision to that effect had been made.
- X. The rent due of £1713.70 remains unpaid.

- XI. The Respondent being contractually due to pay unpaid rent, a payment Order is granted in this Application for the sum of £1713.70.

Reasons for Decision & Decision

I was satisfied based on the information and documents provided that the unpaid rent balance due up to 22 January 2020 is £1713.70. The rent was increased from time to time by agreement between the Parties and more recently was fixed at £500 per calendar month from October 2018. The last rent was due to be paid on 10th January 2020 in advance. The SAT ended sometime after 22 January 2020 when in a separate application to the Tribunal for recovery of possession of the Property a Decision to that effect had been made. The rent due of £1713.70 remains unpaid. I was not satisfied that the Applicants could properly claim recovery of the lock change cost in this Application as the SAT provided for any key costs to be recovered from the deposit taken.

An Order for payment is made for the rent due of £1713.70.

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.

Mrs Susan Christie

Legal Member/Chair

11 March 2020

Date