



**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) (Scotland) Act 2016 (Act)**

**Chamber Ref: FTS/HPC/CV/23/0689**

**Re: Property at 11/3 South Maybury, Edinburgh, EH12 8NX (“the Property”)**

**Parties**

**Gylemuir Properties Limited (Applicant)  
Mr Emmanuele Belotti (Respondent)**

**Gylemuir Properties Limited (Applicant’s Representative)**

**Tribunal Members:**

**Alan Strain (Legal Member) and Sandra Brydon (Ordinary 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 be granted in the sum of £11,508.00.**

**Background**

This is an application under Rule 111 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Rules)* and section 71(1) of the Act in respect of a claim for payment of damages arising from fraudulent misrepresentations made by the Respondent to induce the Applicant to enter the Private Residential Tenancy Agreement .

The Tribunal had regard to the following documents:

1. Application received 6 March 2023;
2. Private Residential Tenancy Agreement (**PRTA**) commencing 19 March 2022;
3. Inventory of Productions containing the following documents:
  - a. Copy of field report from Stirling Park LLP, Sheriff Officers dated 22nd February 2023

- b. Copy of tracing report from Stirling Park LLP, Sheriff Officers dated 2nd March 2023
  - c. Copy of tenancy agreement dated 18th March 2022
  - d. Copy of Respondent's bank statement dated 4th February 2022
  - e. Copy of Respondent's payslip dated 1st December 2021
  - f. Copy of Respondent's Italian national identity card
  - g. Copies of emails between The City of Edinburgh Council and Applicant dated 2nd May 2022 and 3rd May 2022
  - h. Copies of emails between City Glass UK Limited and Applicant dated 24th May 2022 to 23rd June 2022
  - i. Copy of transactions report from Applicant's bank account dated 18th February 2023
  - j. Copy of email from Applicant to Respondent dated 30th January 2023
  - k. Copy of delivery receipt dated 30th January 2023
  - l. Copy of email from Applicant to Respondent dated 4th February 2023
  - m. Copy of delivery receipt dated 4th February 2023
  - n. Copy of letter from Applicant to Respondent dated 4th February 2023
  - o. Copy of pre-action protocol letter from Applicant to Respondent dated 4th February 2023
  - p. Copies of text messages from Applicant to Respondent dated 30th January 2023 and 1st February 2023
  - q. Photograph of letter to Mr Gabriel Malasi dated 4th February 2023
  - r. Copies of emails between Pimlico Plumbers Limited and Applicant dated 8th February 2023
  - s. Copy of letter from Applicant to Respondent dated 22nd February 2023
  - t. Copy of certificate of postage dated 23rd February 2023
4. Certificate of Service of Tribunal CMD Notification on the Respondent by Sheriff Officers dated 23 March 2023.

### **Case Management Discussion (CMD)**

The case called for a CMD by conference call on 30 March 2023. The Applicant participated and was represented by Mr Calvin Gordon, Director and Company Solicitor. The Respondent did not participate and was not represented.

The Tribunal delayed the start of the CMD to see if the Respondent would participate but he did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that he should attend and the Tribunal could determine the matter in absence if he did not.

The Applicants' Representative spoke to the facts contained in the Paper Apart to the application and under reference to the Productions.

The PRTA had been induced and entered into by fraud. The Applicant's Representative invited the Tribunal to award the sums detailed in the Paper Apart to the application as damages for the losses suffered due to the Respondent's fraud in

inducing the Applicant to enter into the PRTA which the Tribunal had reduced on the grounds of fraud.

The Tribunal then considered the documentary evidence it had received and the submissions made. In so far as material the Tribunal made the following findings in fact:

1. The Applicant is the registered proprietor of the Subjects. The Subjects are registered in the Land Register of Scotland under Title No. MID165424. The Tenancy between the Applicant and the Respondent commenced on 19th March 2022. The tenancy agreement was executed on 18th March 2022. The rent is £950.00 per month.
2. The Respondent paid a deposit of £950.00 prior to the Tenancy commencing.
3. The Rent due on 19th January and 19 February 2023 has not been paid;
4. Following reduction the Applicant suffered the loss of rent of £950.00 per month from 19th March 2022 until 18th March 2023, which equates to £11,400.00. This was directly attributable to the Respondent's fraud and would have not been incurred by the Applicant if the Respondent had not committed the fraud.
5. The Applicant incurred costs of £108.00 for obtaining a tracing report on the Respondent and instructing tracing agents to carry out a field visit to the Property. This was directly attributable to the Respondent's fraud and would have not been incurred by the Applicant if the Respondent had not committed the fraud.
6. The Respondent will receive credit for the rent paid up to 18th January 2023 of £9,500.00.

## **Decision and Reasons**

The Tribunal was satisfied that in the circumstances the Applicant was due the sum of £11,508 as damages arising from losses incurred due to fraudulent misrepresentations made by the Respondent to induce the Applicant to enter into the PRTA and granted the order sought.

## **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.**

**30 March 2023**

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**Legal Member/Chair**

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**Date**