

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules)

Chamber Ref: FTS/HPC/CV/19/2234

**Re: Property at 112 Deanburn, Penicuik, EH26 0HZ
 (“the Property”)**

Parties:

**Ms Carolyn Duncan, 129 Bosque De Law Lomas, 17 calle Malvinas, Alicante, 01389, Spain
 (“the Applicant”)**

**TC Young Solicitors, 7 West George Street, Glasgow, G2 1BA
 (“Applicant’s Representative”)**

**Mr Darren Baxter and Ms Meghan Beasley, 112 Deanburn, Penicuik, Eh26 0HZ
 (“the Respondents”)**

Tribunal Members:

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

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents should pay to the Applicant the sum of FOUR THOUSAND FIVE HUNDRED POUNDS (£4500.00) STERLING; and made an Order for Payment in respect of the said sum.

STATEMENT OF REASONS

1. Procedural Background

- 1.1. On 17 June 2019 the Applicant's Representative made an Application to the tribunal ("the Application") under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules") for civil proceedings in relation to an assured tenancy under the Private Housing (Tenancies)(Scotland) Act 2016 ("the 2016 Act").
- 1.2. In the Application the Applicant sought payment from the Respondents of the sum of £3000.00 in respect of rent arrears under the private residential tenancy between the parties, as at 9 July 2019; along with any further sums due at the date the order is made.
- 1.3. The sum sought by the Applicant represents rent arrears as shown on a rental statement for the period from 25 June 2018 to 31 July 2019. During that period rent had been levied at the rate of £750.00 per calendar month payable in advance on 1st of each month. The balance showing as at 31 July 2019 was £3000.00 in arrears.
- 1.4. On 1 August 2019, the Application was accepted for determination by a tribunal. Both parties were notified by letters dated 9 August 2019 of the date, time and place of Case Management Discussion ("CMD") in relation to the Application to take place at 1000h on 18 September 2019 at Riverside House, 2nd Floor, 502 Gorgie Road, Edinburgh, EH11 3AF. The Respondents were invited to make written representations in response to the Application by 31 August 2019. Both parties were advised that they were required to attend the CMD. The parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing an eviction order. The parties were also advised that if they do not attend the CMD this will not stop a decision or order being made if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondents were served with the notification on 9 August 2019.
- 1.5. On 19 August 2019 the Applicant's Representative gave notice that the Applicant wished to amend the sum sued for to £4,500.00 in terms of Rule 14A of the 2017 Rules. The notification of amendment was sent by the Applicant's Representative to both Respondents by first class mail and recorded delivery on 19 August 2019.

1.6. On 5 September 2019 the tribunal notified the parties that a legal member had decided to grant the amendment under Rule 14A and that the application would proceed for the amount of £4,500.00.

1.7. The Respondents did not submit any representations or make any contact with the tribunal.

2. CMD: 1000h on 18 September 2019 at Riverside House, 2nd Floor, 502 Gorgie Road, Edinburgh, EH11 3AF

2.1. Ms Nicola Caldwell, Solicitor, from the Applicant's Representative attended the CMD on behalf of the Applicant.

2.2. The Respondents did not attend the CMD or make any contact with the tribunal.

2.3. The tribunal, being satisfied that the requirements of Rule 24(1) regarding the giving of notice of a hearing have been duly complied with, proceeded with the Application upon the representations of the party present and all the material before it, in terms of Rule 29 of the 2017 Rules.

2.4. Ms Caldwell lodged an updated rent statement to 30 September 2019 with the consent of the tribunal. The arrears showing to 30 September include rent due on 1 September 2019 and the total rent arrears as at 1 September are £4,500.00. Ms Caldwell submitted that the sum of £4,500.00 sought in the amended Application was supported by the terms of the PRT, which require payment on 1st of the month in advance, as illustrated in the rent statement. She also stated that the period for issuing of any decision of the tribunal followed by enforcement procedure would, in fact, extend beyond the end of September 2019.

3. The tribunal makes the following findings-in-fact:

3.1. The Applicant is the Proprietor of the Property.

3.2. There is a Private Residential Tenancy between the Applicant and the Respondents for the Property dated 25 June 2018.

3.3. The start date for the tenancy was 25 June 2018.

3.4. The rent payable is £750.00 per calendar month payable monthly in advance on or before 1st of each month.

3.5. As at 18 September 2019 the Respondents are in arrears of rent of £4,500.00.

4. Discussion

4.1. The tribunal determined on the basis of the Application (including supporting documents) and the oral representations made on behalf of the Applicant that the Applicant had proved on the balance of probabilities that the Respondents owe the Applicant the sum sought.

4.2. On the basis of its findings in fact, the tribunal determined that an Order for Payment should be made in respect of the amended sum of £4,500.00 sought on behalf of the Applicant.

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.

18 September 2019

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