



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/19/3695

Re: Property at 156 Croftside Avenue, Glasgow, G44 5ND (“the Property”)

Parties:

**Mr Graeme Chrichton, Mr Dave Wilson, 33 Rowallan Castle Estate, Kilmaurs,
KA3 2DP; 54 Paidmyre Road, Newton Mearns, Glasgow, G77 5AJ (“the
Applicant”)**

Ms Debra Riddell, 124 Croftend Avenue, Glasgow, G44 5PF (“the Respondent”)

Tribunal Members:

Jan Todd (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 in favour of the Applicants
should be granted in the sum of £5979.04.**

- Background
- 1. This was the third case management discussion (CMD) in respect of an application by the Applicant dated 14th November 2019 for an order for payment in respect of arrears of rent to the Property against the Respondent for the period she was the Tenant in the tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

- A copy of the Tenancy Agreement dated 9th May 2017
- Copy of AT5
- Copy Notice to Quit giving Notice to Quit by 7th November 2019
- Copy S33 Notice dated 6th September 2019

- Letter requesting payment of sum of £4462.97 from Applicants solicitors to the Respondent dated 7th September 2019.
 - Rent Schedule to 2nd September 2019,
2. The first CMD took place at the Glasgow Tribunal Centre on 16th March where the Applicant's Representative Mr Craig of McIntosh McCann solicitors appeared and sought an order for payment for an increased sum of £6548.68 representing rent up to 6th December advising the Respondent had not left the Property until mid-November.
 3. This revised sum had not been intimated to the Respondent and after some discussion Mr Craig requested time to amend the application to increase the sum claimed.
 4. The Tribunal granted an adjournment to a new CMD and asked for a written amendment of the sum claimed with an explanation of why the Applicant is seeking rent due up to the 6th December.
 5. Due to the Covid 19 pandemic that case management discussion was continued to 22nd July 2020.
 6. The legal member prior to this CMD had issued a Direction asking for clarification of the sum now claimed and confirming that any amendment to the sum claimed should be intimated at least 14 days in advance and sent to the Respondent.
 7. The Applicant's solicitor and representative issued a written amendment to the Tribunal on 9th July 2020 asking for the sum claimed to be amended to £6548.68 and enclosing an amended statement advising the Respondent continued to reside in the Property until around mid-November when she vacated it. The Statement goes on to say the Applicants entered the Property around the 6th December with a view to undertaking any necessary repairs and so the Applicant is seeking rent to 6th December 2019.
 8. At the CMD discussion on 22nd July the Legal Member raised the question of why rent would be due to 6th December if the Applicant knew the Respondent had left in mid-November and they had served a Notice to Quit on her asking her to leave by 7th November.
 9. Ms McCann representing the Applicants advised that she accepted that point and would be happy to vary the sum claimed to up to the 7th November only given that was the date on the Notice to Quit and S33 Notice, which date the Applicants had asked the Respondent to leave by. Mrs McCann also acknowledged that the intimation to the Respondent of the revised sum sought had fallen just short of 14 days and undertook to lodge a fresh rent statement showing the sums due and seeking amendment of the sum claimed to 7th November 2019.
 10. On 10th August 2020 Ms McCann of the Applicant's representative's lodged with the Housing and Property Chamber of the first Tier Tribunal for Scotland a revised rent statement and a written amendment of the sum sought to £5979.04 representing the rent due up to and including the 7th November 2019 the date by which the Notice to quit expired asking the Respondent to leave the Property. A copy of this amendment to the application and copy rent statement was also sent by recorded delivery on 10th August to the Respondent.

CMD discussion

11. The CMD proceeded today by way of teleconference due to the continued requirement at the current time for social distancing. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. The Applicant did not attend but was represented by Mr Stuart Craig as the Applicant's representative from McIntosh McCann solicitors.
12. The Respondent did not attend nor was she represented on the teleconference. The Respondent had received and signed for the letter intimating the date and time of the CMD on 28th August 2020. The Respondent has been given fair notice and the Tribunal therefore felt it was appropriate and fair to continue in her absence.
13. Mr Craig advised that he was seeking an order for payment in the revised sum of £5979.04 and referred to the documents lodged in support of this claim.
14. The written documentation shows a tenancy had been created between the parties where the Respondent leased the Property from the Applicant from 9th May 2017 to 9th November 2017 and thereafter on a four weekly basis.
15. The Rent due was £550 payable four weekly.
16. From the revised rent statement lodged arrears had built up from September 2018 and no rent had been paid at all from 18th March 2019 until the Respondent left the Property on 7th November 2019. Mr Craig is seeking an order for his clients in the full amount outstanding. He confirmed that the Respondent has not been in touch or responded to any of the documentation sent to her.

Findings in Fact

1. The parties entered into a lease of the Property which commenced on 9th May 2017 and in terms of the lease continued until 9th November 2017 and thereafter on a four weekly basis until the Landlord or Tenant gives a Notice to Quit.
2. The Rent due in terms of the lease is £550 every four weeks payable in advance
3. The tenant left the Property on 7th November 2019 after being served a Notice to Quit and S33 Notice requiring her to leave by that date.
4. The Respondent failed to pay the rent in full until April 2019 and after that did not pay anything towards the rent due.
5. The rent outstanding at 7th November 2019 is £5,979.04.
6. No further payments have been made towards the rent.
7. There is no deposit.

• Reasons for Decision

8. The parties entered into a lease where the Respondent has leased the property from the Applicant from 9th May 2017 and has agreed to pay £550 every four weeks in rent.

9. It appears the Respondent left the Property after being served a Notice to Quit requiring her to leave by 7th November 2019. The Applicant originally sought rent arrears of £4662.97 but this represented only rent due to 2nd September 2019.
17. The Applicant has intimated a request to amend the sum sought to allow them to claim rent due up to 7th November 2019 and has complied with Rule 14A of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 which states that any amendment to the application including to the sum claimed must be intimated at least 14 days prior to a case management discussion or hearing by intimating such amendment more than 14 days before today's discussion.
10. The Respondent has failed to make full payment of rent since May 2018 and has not made any payment since 18th March 2019. The Applicant is entitled to recover rent lawfully due.
11. The Applicant has charged a pro rata amount for the period from 28th October 2019 to 7th November and in total the arrears amount to £5,979.04.
12. The Respondent has made no appearance at any of the CMD's held to discuss this application and has made no written representations.
13. The Tribunal accepts the written evidence and verbal statements made by the Applicant's agent, who the Tribunal found clear and credible in his evidence that the rent outstanding and due by the Respondent amounts to £5,979.04
14. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

Decision

An Order for payment of the sum of £5,979.04 is granted.

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 Todd

Legal Member/Chair

**22nd September 2020
Date**