



**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**

**Chamber Ref: FTS/HPC/CV/20/1448**

**Re: Property at 3 Grange Gait, Monifieth, Angus, DD5 4PL (“the Property”)**

**Parties:**

**Mr Hin Shun Hung, Mrs Rong Zhang, C/O 37 Union Street, Dundee, DD1 4BS (“the Applicants”)**

**Ms Nicola Forster, 13 Tircarra Place, Broughty Ferry, Dundee, DD5 2QE (“the Respondent”)**

**Tribunal Members:**

**Sarah O'Neill (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 by the respondent of the sum of £6400 should be granted in favour of the applicants.**

**Background**

1. An application form was received on 29 July 2020 from the applicants' representative for a payment order brought in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). Further information requested from the applicants' representative by the tribunal administration was then added to the application, which was accepted on 9 September 2020.
2. The applicants were seeking payment of rent arrears of £6400 from the respondent in relation to the property, being the amount of arrears outstanding up until 8 June 2020.

3. The application included a copy of the private residential tenancy agreement between the parties dated 24 August 2018; and a rent statement showing the rent outstanding up until 8 June 2020 to be £6400.
4. A case management discussion (CMD) was originally scheduled for 21 October 2020 but was postponed at the request of the respondent as she was unable to attend, and to allow her to seek legal representation. A further CMD was arranged for 26 November 2020, and both parties were notified of this on 26 October 2020.
5. No written representations or time to pay application were received from the respondent prior to the CMD.

### **The Case Management Discussion**

6. A case management discussion (CMD) was held on 26 November 2020 by remote conference call. The applicant was represented by Mrs Tania Royle of Baillie Shepherd Solicitors. The respondent was not present and was not represented.
7. The tribunal noted that a letter informing the respondent of the date and time of the CMD, together with instructions for joining the conference call, had been sent to her at the email address via which she had previously contacted the tribunal administration. The tribunal was therefore satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a CMD had been duly complied with. The tribunal delayed the start of the CMD by 10 minutes, in case the respondent had been detained. She did not join the conference call, however, and no telephone calls, messages or emails had been received from her. The tribunal therefore proceeded with the CMD in the absence of the respondent.
8. Mrs Royle told the tribunal that neither she nor her clients had been contacted by the respondent prior to the CMD. She confirmed that no payments had been made towards the outstanding rent arrears, which still totalled £6400. She confirmed that the respondent had left the property on 8 June 2020. She asked the tribunal to grant an order in favour of the applicants for £6400.
9. The tribunal chairperson asked Mrs Royle what had happened to the £1200 tenancy deposit which the respondent had paid to the applicants at the beginning of the tenancy in terms of clause 11 of the tenancy agreement. The agreement indicated that the deposit had been lodged with Safe Deposits Scotland.
10. Mrs Royle told the tribunal that she had no instructions from her clients about the tenancy deposit. The CMD was briefly adjourned to allow her to contact

Mrs Rui Dong, the applicants' property manager, to try to find out what had happened to the deposit, as her clients were in China. Mrs Royle advised that she had been unable to get hold of Mrs Dong, but asked the tribunal to grant an order for the full amount on the basis that the respondent had not challenged the sum claimed. She indicated that if any or all of the £1200 deposit had been / was in future awarded by the tenancy deposit scheme to the applicants in respect of rent arrears, she would advise her clients that this amount should be deducted from the total sum due.

### **Findings in Fact**

11. The tribunal made the following findings in fact:

- There was a private residential tenancy in place between the parties, which had commenced on 29 August 2018.
- The respondent left the property on or around 8 June 2020.
- The rent due under the tenancy agreement was £1200 per calendar month payable in advance on the 29th of each month.
- As at the date of the CMD, the respondent owed the applicant the sum of £6400 in rental payments.

### **Reasons for Decision**

12. Having considered the rent statement before it, the tribunal noted that this confirmed an outstanding balance of rent arrears up to and including 8 June 2020 in the sum of £6400. On the basis of all the evidence before it, the tribunal was satisfied that the respondent was due to pay this amount to the applicants, and that she had been made aware that this sum was due. The tribunal therefore decided to make an order for payment by the respondent to the applicants of that sum. The tribunal notes that in the event that any or all of the £1200 tenancy deposit paid by the respondent to the applicants had been/ was in future awarded by the tenancy deposit scheme to the applicants in respect of rent arrears, it would expect the applicants to deduct this amount from the total sum owed.

### **Decision**

The tribunal grants an order for payment by the respondent to the applicants for the sum of £6400.

### **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.**

**26 November 2020**

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**Legal Member/Chair**

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**Date**