

**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/21/1472

Re: Property at 328 Stoneywood Brae, Aberdeen, AB21 9FB (“the Property”)

Parties:

**Crucible Residential Properties Ltd, Crucible Residential Properties Ltd, 1
Curzon Street, London, W1J 5HD (“the Applicant”)**

Mr Jon McGarvie, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of three thousand three hundred and twenty two pounds and eleven pence only (£ 3322.11) be made in favour of the Applicant and against the Respondent.

Background

1.This is an application for the payment order in terms of Rule 111 of the Tribunal Rules of procedure. The application was received by the Tribunal on 17 June 2021 and accepted by the Tribunal on 24 August 2021. The application was set down for a case management discussion on 4 November 2021 at 10 am and the application was subject to service by advertisement in terms of Rule 6A of the Tribunal rules of procedure as the Respondent’s current address is unknown.

The Case Management Discussion

2.The case management discussion was attended by Ms Valiukaite from Dandara Living, the Applicant’s representative. The Respondent did not attend the case

management discussion and was not represented. The Applicant's representative requested that the Tribunal deal with the application in his absence. The Tribunal had sight of a certificate of service by advertisement in terms of the Tribunal rules of procedure and was satisfied that the matter had been advertised on the Tribunal website for the appropriate period of time was therefore deemed to have been served in terms of the rules of procedure.

3. The Tribunal had sight of a tenancy agreement between the parties, a tenancy statement setting out rent arrears and interest charges applied for late payment between the period of 27 July 2019 and 20 January 2020, an interest calculation spreadsheet, debt recovery procedure, welcome letter, copy emails between the Applicant's representative and the Respondent in relation to rent arrears, a sheriff officer trace report and further copy emails between the parties. The Tribunal also had sight of a deposit statement and invoices in relation to the tenancy. The Applicant's representative explained that the Respondent had rented the property from the Applicant with effect from 27 June 2019. The monthly rent was £755 payable monthly in advance and a deposit was paid in the sum of £1132.50. Rent was paid by the Respondent for the first month of the tenancy agreement on 27th of June 2019. Thereafter no rent payments were made by the Respondent who vacated the property on 20th January 2020. The Applicant's representative sent a number of emails to the Respondent during the tenancy on the issue of rent arrears. No contact was made by the Respondent but ultimately the Respondent contacted a member of staff at the Applicant's Representative's office by email saying amongst other things, that he would be in contact to arrange payment of the outstanding sums due by him. This email was received on 20 January 2020. Since that date the Applicant's representative has had no contact from the Respondent and efforts to trace him have been unsuccessful. His current address is unknown.

4. The sum requested by the applicants representative included £59.06 applied as interest for late payment of rent in terms of clause 2.8.1 of the tenancy agreement. This clause indicates that the landlord reserves the right to charge interest at 4% above the Royal Bank of Scotland Base rate on any late payment due by the tenant. The statement of account indicated that these charges were applied at the rate of 4.75% and were charged on a daily basis according to how long the rent was overdue. The late payment charges were applied only until the end of the tenancy. In addition the Applicant was not seeking to add the Sheriff officer trace fee to the terms of the payment order requested.

5. The Applicant had obtained the deposit paid by the Respondent which is being retained in respect of the rent arrears. This reduced the sum being sought by the Applicant to the sum of £3322.11.

5. The Tribunal had sufficient information in order to make a decision and was of the view that the proceedings had been fair.

6. The Tribunal made a payment order in the sum of £3322.11.

Findings in Fact

7. The Applicant and Respondent entered into a tenancy agreement for the property from 27 June 2019 until 20 January 2020.

8. The Respondent paid a deposit in respect of the tenancy and the monthly rent payable in terms of the tenancy was £755 per month.

9. The first month's rent was paid by the Respondent and then rent arrears started to accrue. No rent payments were made by the Respondent after June 2019.

10. The Respondent vacated the property on 20 January 2020 and indicated that he would contact the Applicant's representative the following week in relation to payment of the sums due.

11. Despite this the Respondent has made no effort to contact the Applicant or their representative in respect of payment of the arrears.

12. Rent arrears at the property together with interest applied in respect of late payment of rent, amounts to £4454.61.

13. Interest charges for late payment of rent were properly applied to the rent arrears due by the Respondent in terms of Clause 2.8.1 of the tenancy agreement and amount to £59.06.

13. The deposit paid by the Respondent has been retained by the Applicant and after deduction of the deposit, rent arrears together with the interest charges applied for late payment up to the end of the tenancy agreement amounts to £3322.11.

14. The sum of £3322.11 is lawfully due by the Respondent to the Applicant in relation to rent arrears and interest applied for late payment of rent at the property.

Reasons for Decision

15. The Tribunal was satisfied it was reasonable to make a payment order in relation to this application. The Respondent had entered into a tenancy at the property for a period in excess of six months and had paid rent for only one month. The tenancy agreement allowed the landlord to apply interest for late payment of rent and this had been applied up to the date when the tenancy terminated. The late payment charges applied were relatively modest. The Respondent had made no effort to contact the Applicant's representatives regarding the arrears despite indicating that he would do so when he vacated the property in January 2020.

Decision

The Tribunal made a payment order in the sum of £3322.11 in favour of the Applicant and against the Respondent.

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.

Legal Member: Valerie Bremner

Date: 04/11/2021

Valerie Bremner