



**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/22/0290**

**Re: Property at 164 (2/R) Lochee Road, Dundee, DD2 2NH (“the Property”)**

**Parties:**

**Ms Isabel Stewart, 21 Relugas Road, Edinburgh, EH9 2PT (“the Applicant”)**

**Mr Yousif Abbas, 4B Arklay Terrace, Dundee, DD3 7PJ (“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 £395.38 should be granted in favour of the Applicant.**

**Background**

1. An application was received on 1 February 2022 from the applicant’s representative, Rockford Properties Ltd, on her behalf 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”).
2. Attached to the application form were the following:
  - (i) copy short-assured tenancy agreement between the parties relating to the property, together with form AT5 both dated 11 December 2015.
  - (ii) Private residential tenancy agreement between the parties relating to the property dated 5 November 2020.
  - (iii) Rent increase notice relating to the property dated 5 November 2020.

- (iv) Rent statement dated 1 February 2022, showing the outstanding rent due as at that date to be £395.38.
  - (v) Tracing report from DB Investigations Ltd showing the respondent's address to be 4A Arklay Terrace, Dundee DD3 7PJ.
3. The applicant was seeking payment of £395.38 in rent arrears from the respondent in relation to the property. This was stated to be the outstanding sum due after allocation of the tenancy deposit.
  4. In response to a letter from the tribunal administration seeking further information, the applicant's representative sent an email on 18 February 2022 confirming that the respondent's tenancy ended on 13 August 2021. Attached to the email were: 1) an email from the applicant confirming that she had instructed Rockford Properties Ltd to act for her in relation to the application and 2) correspondence from SafeDeposits Scotland dated 13 October and 25 November 2021, confirming that the entire £415 deposit had been repaid to the applicant, in respect of cleaning (£331.20), damage to property or contents (£39.73) and rent arrears (£44.07).
  5. The application was accepted by the tribunal for determination on 3 March 2022. The application papers, together with notice of the case management discussion (CMD) scheduled for 10 May 2022, were served on the respondent by sheriff officer on behalf of the tribunal on 23 March 2022. No written representations or time to pay application were received from the respondent prior to the CMD.

### **The CMD**

6. A CMD was held by remote teleconference call on 10 May 2022. The applicant was represented on the teleconference call by Mr Scott Clark, Property Manager with Rockford Properties Ltd. The respondent was not present and was not represented. The tribunal delayed the start of the discussion by 10 minutes, in case the respondent had been detained. He did not appear, however, and no telephone calls or messages had been received from him.
7. The tribunal noted that the application papers, together with notice of the CMD, had been served on the respondent by sheriff officer at **4B** Arklay Terrace, Dundee DD3 7PJ. The sheriff officer had confirmed that this was in fact the correct address, and that they had given the papers personally to the respondent's wife at that address. The tribunal was 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. It therefore proceeded with the CMD in the absence of the respondent.

8. Mr Clark confirmed that there were still outstanding arrears of £395.38. There had been no further contact from the respondent since the application was made, and no further payments had been made. He confirmed that the applicant sought a payment order for the sum of £395.38 against the respondent.

### **Findings in fact**

9. The tribunal made the following findings in fact:
- The private residential tenancy between the parties commenced on 11 November 2020.
  - The rent payable under the tenancy agreement was initially £390 per month, payable in advance on the 11<sup>th</sup> day of each month.
  - The rent was increased to £400 per month from 11 February 2020, and this increase was accepted by the respondent.
  - The respondent moved out of the property on or around 13 August 2021.
  - The outstanding rent at the date when the respondent moved out was £439.45.
  - The applicant was awarded the entire tenancy deposit of £415 by SafeDeposits Scotland on 25 November 2021, in respect of cleaning (£331.20), damage to property or contents (£39.73) and rent arrears (£44.07).
  - No response was received by SafeDeposits Scotland from the respondent in relation to the applicant's proposal that the entire deposit should be repaid to her.
  - The outstanding rent arrears owed by the respondent to the applicant as at the date of the CMD was £395.38 (i.e. £439.45 less £44.07).

### **Reasons for decision**

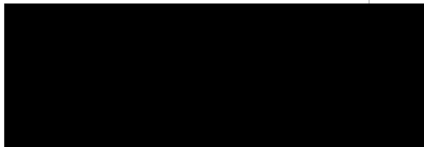
10. On the basis of all the evidence before it, the tribunal was satisfied that the respondent owed £395.38 in rent to the applicant as at the date of the CMD.
11. The tribunal therefore decided to make an order for payment by the respondent to the applicant of that sum.

### **Decision**

The tribunal grants an order for payment by the respondent to the applicant for the sum of £395.38.

## **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/Chair**

10 May 2022

**Date**