



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

Chamber Ref: FTS/HPC/CV/23/0830

Re: Property at 57 Russell Square, Arbroath, Angus, DD11 3DQ (“the Property”)

Parties:

Mr Alan Haggart, 28 Chapman Drive, Carnoustie, Angus, DD7 6DX (“the Applicant”)

Ms Caitlin Campbell, 2 Forbes Place, Arbroath, DD11 4JL; Richard Campbell, Rue Haute 28B, 1330 Rixensart, Wallonie, Belgium (“the Respondents”)

Tribunal Member:

Josephine Bonnar (Legal Member)

Decision (in absence of the first Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £2213.86 should be granted against the Respondents in favour of the Applicant.

Background

1. The Applicant seeks a payment order in relation to unpaid rent. A tenancy agreement and rent statement were lodged with the application. A copy of the application was served on the First Respondent by Sheriff Officer on 25 April 2023. She was the only Respondent named in the application. Both the Applicant and First Respondent were advised that a case management discussion (“CMD”) would take place by telephone conference call on 31 May 2023, and they were required to participate.
2. On 24 May 2023, the Applicant notified the Tribunal that the first Respondent had vacated the property on 10 May 2023 and that the arrears had reduced to

£2709.03. On 29 May 2023, the Applicant provided the Tribunal with the first Respondent's new address.

3. The CMD took place on 31 May 2023. The Applicant participated. The first Respondent did not participate. Mr Taggart told the Tribunal that the first Respondent vacated the property on 10 May 2023 and that he had calculated the rent up to that date. The rent statement lodged showed the rent arrears up to the end of March. A further month's rent of £495 and 9 additional days amounting to £143.70 had been due. The guarantor, Mr Richard Campbell, had made two further payments of £938.22 and £487.40 on 20 March and 19 April 2023. This left a balance due of £2709.03. Although the deposit had been recovered, the property had been left in poor condition and professional cleaning and replacement carpets and fridge freezer were required.
4. The Legal Member noted that the application had only been made in relation to the first Respondent although there was a joint tenant named on the tenancy agreement. Mr Taggart had also mentioned a guarantor. Mr Taggart said that he did not wish to seek an order against the joint tenant as he had vacated the property some time ago. However, he would like to seek an order against the guarantor. Following discussion, Mr Taggart made a request to amend the application to add the guarantor, Mr Campbell, as joint Respondent. He provided an address. The Legal Member allowed the amendment to be made but advised that the CMD would require to be continued to allow for service of the application on him. It was also noted that Mr Taggart would require to submit a copy of the tenancy agreement which had been signed by the guarantor and an updated rent statement prior to the next CMD.
5. The parties were notified that a further CMD would take place on 8 August 2023. Prior to the CMD, Mr Campbell contacted the Tribunal and confirmed that he and Miss Campbell would make payments to the arrears. Mr Taggart submitted a copy of the guarantee signed by Mr Campbell and a further rent statement. Another updated rent statement was submitted on the morning of the CMD.
6. The CMD took place by telephone conference call on 8 August 2023 at 2pm. The Applicant and the Second Respondent both participated. The first Respondent did not participate and was not represented.

Case Management discussion

7. Mr Campbell told the Legal Member that he had not been served with a copy of the application but was aware of the rent arrears. He indicated that he did not want the CMD to be continued to a later date. He confirmed that he had received the updated rent statement at the start of the CMD and that it appeared to be accurate. The Tribunal noted that this showed payments of £200.38 on 5 July 2023 and £194.79 on 24 July 2023. Mr Campbell said that he had been endeavouring to make payments of £200 but that the conversion from euros to sterling meant that the sums paid were slightly different. The Legal Member also noted that a payment had been made by Ms Campbell of £100 on 24 July 2023.

8. Mr Taggart told the Legal Member that, although payments had been made, he was still seeking payment order for the sum now due of £2213.86. He indicated that he was willing to allow the Respondents to pay a monthly instalment but that payments had been erratic, so he wanted a payment order in place. The Legal Member noted that a time to pay application had not been submitted by either party, so a time to pay direction could not be made. Mr Campbell stated that payments would be made to clear the arrears and that he did not oppose the granting of an order.

Findings in Fact

9. The Applicant is the owner and landlord of the property.
10. The first Respondent is the former tenant of the property. The tenancy terminated on 9 May 2023.
11. The Second Respondent was the guarantor in terms of the tenancy agreement.
12. The first Respondent was due to pay rent at the rate of £495 per month.
13. The Respondent owed the sum of £2709.03 in unpaid rent at the end of the tenancy.
14. The Respondents have paid the sum of £495.17 to the Applicant since the end of the tenancy.
15. The Respondents owe the sum of £2213.86 in unpaid rent.

Reasons for Decision

16. From the documents lodged by the Applicant, including the updated rent statements, and the information provided at the CMD, the Tribunal is satisfied that the first Respondent has incurred arrears of rent of £2213.86 and that the Applicant is entitled to a payment order in relation to same. The Legal Member is also satisfied that the Second Respondent was the guarantor in terms of the tenancy agreement and that he is jointly and severally liable for the arrears of rent.

Decision

17. The Tribunal determines that an order for payment should be granted against the Respondents.

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.

Josephine Bonnar, Legal Member

8 August 2023