

Housing and Property Chamber
First-tier Tribunal for Scotland



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 (“2016 Act”)

Chamber Ref: FTS/HPC/CV/23/0920

**Re: 35/1 Dean Path, Edinburgh, EH4 3AY
 (“the Property”)**

Parties:

**Miss Natasha Guise, 9 Clerwood Loan, Edinburgh, EH12 8PY
 (“the Applicant”)**

**Mr Ryan Christopher Gavan, 35/1 Dean Path, Edinburgh, EH4 3AY
 (“the Respondent”)**

Tribunal Members:

Pamela Woodman (Legal Member) and Mike Scott (Ordinary Member)

Present:

The case management discussion in relation to case reference FTS/HPC/CV/23/0920 took place at 10am on Thursday 17 August 2023 by teleconference call (“**the CMD**”). Both the Applicant and the Respondent were present at the CMD. The clerk to the Tribunal was Elliott Green.

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:

BACKGROUND

1. An application was made to the Tribunal under section 71(1) of the 2016 Act and in terms of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“**HPC Rules**”) which are set out in the schedule to The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended. More specifically, the application was made in terms of rule 111 (*Application for civil proceedings in relation to a private residential tenancy*) of the HPC Rules.

2. The order sought from the Tribunal was an order for payment against the Respondent in respect of the Property.
3. The application was dated 20 March 2023 and was accompanied by various documents, including:
 - a. Private residential tenancy agreement between the Applicant and the Respondent dated 26 June 2019 [sic] and 25 June 2020 ("**Tenancy Agreement**");
 - b. Rental log up to (and including) 14 March 2023 which noted arrears of £5,500 ("**Original Rental Log**").
 - c. E-mail from the Respondent dated 30 April 2021 regarding changing the rent payment date each month.
4. A notice of acceptance of the application was issued dated 11 April 2023 under rule 9 of the HPC Rules, which confirmed that the application paperwork had been received by the Tribunal on 21 March 2023.
5. The Tribunal had received a copy of the certificate of intimation issued by Christopher Andrew (sheriff officer) of Walker Love which confirmed that the letters (in respect of the cases with reference FTS/HPC/EV/23/0919 and FTS/HPC/CV/23/0920) with enclosures from the Tribunal had been served personally on the Respondent on 12 May 2023.
6. The original case management discussion which had been scheduled for 14 June 2023 had been postponed, resulting in the CMD.
7. By e-mail on 25 July 2023, the Applicant made a request to amend the application under rule 14A of the HPC Rules to update the amount of rent arrears and provided an updated rental log up to (and including) 14 July 2023 which noted arrears of £7,000 ("**the Updated Rental Log**"), together with a copy of an e-mail sending it to the Respondent, which also made reference to the date of the CMD.
8. The Tribunal consented to the amendment and accepted the Updated Rental Log under rule 14A of the HPC Rules.
9. The Tribunal noted that the Applicant was the registered landlord and recorded proprietor of the Property.
10. This decision arises out of the CMD.

PROCEEDINGS, NAMELY THE CMD

11. The Respondent agreed that there were rent arrears of £7,000 as at 14 July 2023.

FINDINGS IN FACT

12. The Tenancy Agreement stated that the rent was £750 per calendar month and was payable on or before the 1st of each month.
13. Following a request from the Respondent by e-mail dated 30 April 2021, the parties varied the Tenancy Agreement with regard to the date of payment of rent each month, such that rent became due and payable on the 14th of each month.
14. As at the 14 July 2023, there were arrears of £7,000. This was accepted by the Respondent.

REASON FOR DECISION

15. The Tribunal was satisfied, on the balance of probabilities, that there were rent arrears of £7,000 as at 14 July 2023 and that that amount was payable by the Respondent to the Applicant under the Tenancy Agreement.

DECISION

16. The Tribunal granted the application for a payment order in an amount of £7,000.
17. The Respondent was informed of his right of appeal and that he would find links to where he might obtain advice (should he wish it) at <https://housingandpropertychamber.scot/useful-links>.

Right of Appeal

In terms of Section 46 of the Tribunals (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.

Pamela Woodman

17 August 2023

Chair

Date