



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/23/1021

Re: Property at 4/4 Warrender Park Crescent, Edinburgh, EH9 1DX (“the Property”)

Parties:

Ms Imogen Alice Wheeler, The Old Grammar School, Royal Square, Dedham, Colchester, CO7 6AA (“the Applicant”)

Mr Craig Cameron, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Alastair Houston (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 of £510.00 be made in favour of the Applicant.

1. Background

- 1.1 This is an application under rule 111 of the Chamber Rules whereby the Applicant sought an order for payment of £510.00 together with the costs of recovering this sum from the Respondent.
- 1.2 The application was accompanied by copies of the tenancy agreement between the parties, correspondence in respect of the sum sent to the Respondent and a schedule detailing the rent payments made. No representations had been received from the Respondent.

2. The Case Management Discussion

- 2.1 The Case Management Discussion took place on 27 July 2023 by teleconference. The Applicant attended personally. The Respondent was neither present nor was he represented.
- 2.2 The Tribunal noted that service of the application had been made by advertisement. The Applicant confirmed that she wished to proceed in the Respondent's absence. The Tribunal was content to do so as permitted by rule 29 of the Chamber Rules.
- 2.3 The Applicant confirmed that she was seeking payment of a sum of overpaid rent. The tenancy agreement in respect of the property required a total payment from her and the joint tenants of £2500.00 per calendar month. The tenancy agreement had ended by agreement in June 2022 with a reduced sum payable for that month. The tenants had an arrangement between themselves whereby the Applicant contributed slightly less on a monthly basis towards the total rent however, due to her error, she had made an overpayment to the Respondent of £50.00 in June 2021 and £460.00 in June 2022. She had written to the Respondent but, apart from an acknowledgement by text message, the matter had not been resolved.
- 2.4 The Applicant also advised she had incurred a cost of approximately £100.00 in connection with attempting to recover the money to date. She was initially unclear as to what this was for but, following a short adjournment during which the Tribunal was able to confirm with her that no sums would have been payable in connection with the present application, she advised it was a court fee payable when she had attempted to bring what she characterised as a small claim.

3. Reasons For Decision

- 3.1 The Applicant clearly set out in the schedule of rent payments what was due and what had been paid to the Respondent. In the absence of any representations to the contrary, the Tribunal was content that an overpayment of rent compared to what was due under the tenancy agreement had been identified.
- 3.2 The Tribunal did not believe that the Applicant was entitled to recover the costs incurred to date. It appeared that she had attempted to bring a claim in the incorrect forum and had been incurred as a result of her error. Further, the Respondent had not involved himself in the application and the Tribunal did not believe any liability arose via the Chamber rules, nor was any provision of the tenancy agreement identified which would allow for recovery of that sum.

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.

Alastair Houston

**Alastair Houston
Legal Member/Chair**

**27 July 2023
Date**