



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber) under Section 71 of the Private Housing  
(Tenancies) (Scotland) 2016 Act**

**Chamber Ref: FTS/HPC/CV/19/0905**

**Re: Property at 37 Reid Terrace, Stockbridge, Edinburgh, EH3 5JH (“the  
Property”)**

**Parties:**

**Ms Deborah Lee, 2/28 The Crescent, Manly, New South Wales 2095, Australia  
 (“the Applicant”)**

**Mr Andrew Davies, Ms Kathryn Hendry, 29/2 Sloan Street, Edinburgh, EH6  
8PN; UNKNOWN, UNKNOWN, UNKNOWN, UNKNOWN (“the Respondents”)**

**Tribunal Members:**

**Joel Conn (Legal Member)**

**Decision (in absence of the parties)**

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

1. This is an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy Agreement of the Property by the Applicant to the Respondents dated 9 February 2018 and with start date on 16 March 2018.
2. The application was dated 18 March 2019 and lodged with the Tribunal shortly thereafter. The order sought in the application was for £5,650 of rent arrears being arrears which developed from 9 June 2018 through to 9 December 2018 due to short and missed payments on a monthly rent of £1,400 per month. The Respondents were said now to have left the Property. The lease for the said tenancy also accompanied the application and bore a rental payment of £1,400

per month, payable on the 16<sup>th</sup> of each month (following the date of entry of 16 March 2018 in the Tenancy Agreement). Correspondence was provided by the Applicant's representative explaining that the date of entry was moved forward to 9 March 2018 and the monthly rental became due on the 9<sup>th</sup> of the month in return. On 8 May 2019, the Applicant's representative sought to amend the application to apply a deposit, then recovered, of £1,300 against the arrears, reducing the sum sought to £4,350. This amendment was included in the final application accepted by the Tribunal.

### **The Hearing**

3. On 23 October 2019, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at George House, Edinburgh, there was no appearance for any party.
4. The Applicant's representative, Derek Tait, had emailed the Tribunal in advance to confirm that he would not be able to attend but that the application papers were relied upon.
5. In regard to the Respondents, further to the Respondents vacating the Property the Applicant was provided with a forwarding address which was included in the application. Attempted intimation of an earlier CMD by the Tribunal on 10 June 2019 at that address disclosed that it was temporary accommodation at which the Respondents were no longer resident. Service by Advertisement was then granted and undertaken (first for an adjourned CMD that was discharged due to lack of Tribunal time, and then for today's adjourned CMD). A Certificate of Service by Advertisement was prepared by the Tribunal's clerk and provided to me.
6. There was, however, brief correspondence between the Tribunal and the First Respondent by email on 6 August 2019 prior to the last adjourned CMD. After advertising the intimation of the last CMD, the Tribunal's Clerks had, as a matter of completeness, emailed both the Respondents to the email addresses in the application (which are not email addresses seen in the Tenancy Agreement) alerting them to the Service by Advertisement. The First Respondent called the Tribunal, and then emailed the Tribunal on 6 August 2019 stating "my forwarding address is" [address redacted]. No response was received on behalf of the Second Respondent.
7. Although it appears that postal intimation of the last CMD was sent to the First Respondent's "forwarding address" that did not occur for this CMD. Further, although another email went to the Second Respondent alerting her to Service by Advertisement for this CMD, the Clerk could not identify one to the First Respondent for this CMD.
8. As the Respondents had not expressly consented to email intimation, the emails were for courtesy only. The service undertaken for this CMD was Service by Advertisement, such service being allowed for the application in July 2019. Though I am concerned that the First Respondent may have been

expecting intimation to the “forwarding address” provided on 6 August 2019, and that there would have been some benefit in an email to the First Respondent’s email address to inform him of today’s CMD, the address provided by the First Respondent was: said only to be a “forwarding address” (not a permanent address), and is not adopted by the Applicant as being the address in the application for the First Respondent. Service by Advertisement was granted in July 2019 and remained valid for intimation of today’s CMD. Furthermore, despite being in contact with the Tribunal in August, and being aware of the previous CMD, the First Respondent offered no submissions or defence on the application.

9. In all the circumstances, I was satisfied to consider the application in full at the CMD in the absence of the Respondents.
10. The application did not seek any order in respect of expenses or interest at any contractual rate.

### **Findings in Fact**

11. On 9 and 12 February 2018, the Applicant let the Property to the Respondents by a Private Residential Tenancy with a start date of 16 March 2018 (“the Tenancy”).
12. By email exchange 28 February to 1 March 2018, the parties agreed to amend the start date to 9 March 2018.
13. Under the Tenancy, the Respondents were to make payment of £1,400 per month in rent to the Applicant on the 16<sup>th</sup> of each month.
14. In terms of the said email exchange, the payment date was amended to the 9<sup>th</sup> of each month.
15. As of 9 December 2018, there was unpaid rent of £5,650 due by the Respondents to the Applicant in terms of the Tenancy being the rent arrears accrued from 9 June to 9 December 2018.
16. On 18 March 2018, the Applicant raised proceedings for an order for payment of the rent arrears of £5,650.
17. As of 8 May 2018, the Applicant had received uplift of a deposit of £1,300 paid by the Respondents and applied same against the then arrears of £5,650. The Applicant amended the application to seek an order for payment of £4,350.
18. As today, there was unpaid rent of £4,350 due by the Respondents to the Applicant in terms of the Tenancy less applied deposit.
19. The Respondents provided no evidence of payment of any part of the said unpaid rent of £4,350 nor any dispute that the said unpaid rent was due in full.

20. The CMD was competently intimated by the Tribunal upon the Respondents by advertisement.

### Reasons for Decision

21. The application was in terms of rule 111, being an order for civil proceedings in relation to a private residential tenancy. I was satisfied, on the basis of the application and supporting papers, that rent arrears of £4,350 were outstanding as at the date of the CMD for the period to conclusion of the Tenancy.
22. I was satisfied that the necessary level of evidence for such civil proceedings had been provided. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the sum sought of £4,350.
23. I remain, however, concerned that the First Respondent's email contact of 6 August 2019 with a "forwarding address" could have been considered more fully by the Tribunal Clerks. I am directing that a copy of this Decision and the Order granted alongside should be intimated to the First Respondent by ordinary post to the "forwarding address" provided on 6 August 2019, as well as emailed to the last known email addresses of both the Respondents. The Respondents should then note the below information on right of appeal as well as Procedure Rule 30 regarding recall.

### Decision

24. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondents jointly and severally for payment of the sum of £4,350 to the Applicant with interest at 8% per annum from today's date until payment.

### 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.**

Joel Conn

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Legal Member/Chair

23 October 2019  
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Date