



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

Chamber Ref: FTS/HPC/CV/19/0351

Re: Property at 52 Ardbreck Place, Inverness, IV2 4QQ (“the Property”)

Parties:

**Mr Stephen Maddison, Heather Hawes, Viewmount Brae, Inverness, IV2 5BP
 (“the Applicant”)**

**Miss Olivia Nimmo, unknown, unknown, Mr Alexandru Petrut Ion, unknown,
unknown (“the Respondents”)**

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondents)

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

This is an application for civil proceedings in respect of Rule 111 of the First Tier Tribunal for Scotland Housing and Property Chamber(Procedure) Regulations 2017. The Application related to rent arrears said to be due for the property. The Applicant attended the Case Management Discussion on 19th June 2019. There was no appearance from the Respondents or any representative on their behalf. Their current addresses appear to be unknown. The application in relation to both Respondents had been advertised on the First-Tier Tribunal website in terms of Rule 6A of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018. The Applicant requested that the Tribunal proceed with the application in absence of the Respondents and the Tribunal granted this request, given that the application had been the subject of service by advertisement and Rule 29 of the Tribunal rules allow for the Tribunal to proceed in the absence of a party.

Mrs Valerie Bremner

The Tribunal had sight of the application, a number of papers apart, a tenancy agreement, a notice to leave, copy e mails to the Respondents, copies of screenshots from a mobile phone, a bank statement in relation to the payment of rent and email correspondence from SafeDeposits Scotland.

The Applicant explained that he had rented the property to the Respondents with effect from 16th April 2018. The rent due in respect of the property was £600 per calendar month and the Applicant was aware that the Respondents were seeking to claim benefit to assist with the payment of the rent. The Applicant discussed with the Respondents the date when the rent each month would be due, and he fixed the 15th of the month as the rent payment due date, to allow for benefits which the Respondents were receiving to be paid to them first. There were difficulties in payment of rent almost immediately, with the rent in June paid late and the rent for July been paid in mid August. However the Applicant indicated that he did ultimately receive rent payments up to and including the month of August 2018. After that date no rent payments at all were received by him from the Respondents. The Applicant emailed the Respondents regarding the arrears.

Although the Applicant was aware that the Respondents were in receipt of benefit to assist in payment of the rent, in all his dealings with them at no stage did either of them indicate that there was a difficulty in paying the rent due to a delay or failure in the payment of any benefit. The sum claimed in relation to arrears of rent is the monthly rent for the months of September, October, November and December 2018 and the first week of January 2019, up to the date that the Respondents ceased to occupy the property.

The Applicant indicated that he wished the Tribunal to consider further claims in respect of additional costs in relation to damage at the property. He explained that he had been able to recover the deposit paid by the respondents from SafeDeposits Scotland and that this covered what he had believed was the extent of damage, cleaning and redecoration costs. However, on dealing further with the property he had incurred additional expenditure of £458. The Tribunal explained to the Applicant that if he wished to increase the sum he was claiming by way of a payment order that fair notice of that would require to be given to the Respondents, albeit in this matter by service by advertisement. The Applicant indicated that he wanted to pursue a payment order in the sum intimated on his application, the sum of £2535. This was made up of 4 months of rent arrears at £600 per month and £135 which was calculated to be due for the first week of January 2019.

The application did not refer to interest in relation to the sum being claimed.

Mrs Valerie Bremner

The Applicant had indicated that he wished to include fees associated with debt recovery in any payment order. The Tribunal indicated that it could not consider any costs which the applicant had not yet incurred. In the application the Applicant had not set out what these costs would be. The Applicant was prepared to proceed without reference to debt recovery costs.

Findings in Fact

1. The Respondents entered into a tenancy agreement with the Applicant with effect from 16th April 2018 in respect of the property with the rent being £600 per month.
2. The Respondents paid no rent after August 2018.
3. The Respondents ceased to occupy the property after the first week of January 2019.
4. The arrears of rent due amount to £2535.
5. There was no information narrated by the Applicant to suggest that the failure by the Respondents to pay rent from September 2018 was due to any failure or delay in the payment of housing benefit or universal credit to them.

Reasons for Decision

The Tribunal was satisfied that the rent was lawfully due by the Respondents to the Applicant in respect of the tenancy of the property between September 2018 and the first week of January 2019. The Tribunal was also satisfied that the arrears of rent were not referable to any delay or failure in the payment of any relevant benefit. The Tribunal was satisfied that it was reasonable in the circumstances to make a payment order.

Decision

The Tribunal made a payment order in favour of the Applicant against both of the Respondents in the sum of £2535.

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.

Mrs Valerie Bremner

Legal Member/Chair

19th June 2019.

Date