

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 16 of the Housing (Scotland) Act 2014.

Chamber Ref: FTS/HPC/CV/18/2332

Re: Property at 20 Belsize Road, Broughty Ferry, Dundee, DD5 1NF ("the Property")

Parties:

Mrs Lynne Tunbridge, 12 Arbuthnott Loan, Broughty Ferry, Dundee, DD5 3TN ("the Applicant")

Miss Heather Billington, 8 Cortachy Crescent, Broughty Ferry, Dundee, DD5 3BF ("the Respondent")

Tribunal Members:

Mary-Claire Kelly (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 £242.48 should be granted.

Background

1. By Application dated 3rd September 2018 the applicant applied to the Tribunal for an Order for Payment in respect of rent arrears of £791.71. The applicant also sought payment of £340 in respect of an unpaid tenancy deposit.
2. A tenancy agreement signed by the parties was lodged with the application. The tenancy commenced on 1st May 2017. The monthly rent was £595. A deposit of £595 was specified in the lease.

Case Management Discussion ("CMD")

3. The CMD took place on 12th November 2018 at 10am Dundee Carers Centre. The applicant and her husband, Douglas Tunbridge attended. The respondent did not attend.
4. Having regard to Rule 29 and having been satisfied that notice had been given in terms of Rule 24(1) of the Rules, the Tribunal proceeded with the CMD in the absence of the respondent.
5. The applicant had lodged a rent account showing payments made from the commencement of the tenancy until a final payment of £251.88 on 23rd July 2018. The respondent had been in receipt of partial housing benefit and had made payments by cash transfer in addition to the housing benefit payments. The rent account had been adjusted to show the rent due on a four weekly basis (£549.23), in line with payments of housing benefit.
6. The applicant advised the Tribunal that the respondent had removed from the tenancy without notice prior to 17th July 2018. On that date the respondent had entered the property to find it unoccupied. The applicant advised that the respondent had left the tenancy in an untidy condition and that various works were required to address the condition that the property had been left in.
7. The Tribunal noted that the figure for rent arrears sought by the applicant included a payment of £549.23 which had become due on 19th August 2018. The Tribunal noted that in line with the rest of the rent account this amount would have covered the rent due for the 4 weeks following 19th August 2018. The Tribunal noted that the notice period required in terms of the lease was 4 weeks and that the applicant was entitled to rent for that period. However, taking into account the date that the respondent removed from the property the payment due on 19th August 2018 did not fall to be included as rent arrears.
8. The applicant agreed with an adjustment to the figure for rent arrears, reducing the amount sought to £242.48.

9. The applicant advised that the issue in relation to the tenancy deposit had been resolved as the local authority had made payment of the unpaid deposit. The applicant no longer sought an Order in respect of the unpaid deposit.

10. Findings in fact

- a. The parties entered into a lease in respect of the property on 1st May 2017.
- b. The rent due was £595 per calendar month.
- c. The respondent removed from the subjects without notice prior to 17th July 2018.
- d. The tenancy agreement stipulated that the tenant required to give 4 weeks' notice prior to ending the tenancy.
- e. Arrears of rent are £242.48.

Reasons for the Decision

11. Having been satisfied that the amount of £242.48 was due in respect of unpaid rent the Tribunal proceeded to make an Order for Payment in that amount.

Decision

12. Order for payment of £242.48.

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.

Mary-Claire Kelly

Legal Member/Chair

12 November 2018
Date