

# Housing and Property Chamber

## First-tier Tribunal for Scotland

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**Decision of the First-Tier Tribunal for Scotland under Section 16 of the Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/18/3164**

**Re: Property at 44c Portobello High Street, Edinburgh, EH15 1DA (“the property”)**

**Parties:**

**Mr Muhammed Afzal, 2/5 Drumsheugh Gardens, Edinburgh, EH3 7QJ (“the Applicant”)**

**Ms Norma Arthur, 12a Collesdene Loan, Edinburgh, EH15 2LH (“the Respondent”)**

**Tribunal Members:**

Mark Thorley, Legal Member

Helen Barclay, Ordinary Member

**Hearing**

Following upon the case management discussion held on 1<sup>st</sup> March 2019 certain further written information had been provided.

1. Updated rent statement showing outstanding rent totalling £1,427.31.
2. Copy email by the Respondent to the applicant dated 28<sup>th</sup> April 2018 providing Notice to Quit.
3. Copy email from Letting Protection Service Scotland dated 17<sup>th</sup> July 2018.
4. Calculation of interest in relation to the applicant’s Lease from 2000.

**At the Hearing**

The Applicant was represented by Miss Sharon Shanley from Shanley Lettings.

The Respondent Miss Norma Arthur attended along with her son.

Following upon a hearing the following finding in facts were made.

1. The Respondent was a tenant of the Applicant from on or about 9<sup>th</sup> June 2000.

2. An initial Lease was signed between the parties.
3. A subsequent Lease was entered into between the parties dated 8<sup>th</sup> May 2015. That was subsequently revised by Lease of 29<sup>th</sup> July 2015.
4. The rent was increased on a monthly basis to the sum of £680 per calendar month commencing on 1<sup>st</sup> June 2017.
5. The Respondent gave Notice to Quit the tenancy on 20<sup>th</sup> April 2018. The Respondent remained liable to pay rent for the months of May and June 2018.
6. The Applicant made an application to the Tribunal to seek payment of outstanding rent in the sum of £578.
7. The Respondent accepted that amount as being a correct amount of outstanding rent.
8. Quantification of any interest due by the Applicant to the Respondent in respect of the deposit from 2000 was incalculable.

### **Reasons for the Decision**

The Applicant had made an initial application to court setting out that the sum due by the Respondent was the sum of £578. This was confirmed by way of letter from the Applicant's agent's representatives Miss Sharon Shanley to the Respondent by way of letter dated 9<sup>th</sup> September 2018. The amount of outstanding rent arrears were said to be £1,078. Letting Protection Scotland had released the deposit to the Applicant of £500 leaving an amount outstanding of £578.

Subsequently a revised rent statement had been prepared by Miss Shanley on behalf of the Applicant and had been forwarded to the Tribunal setting out the rent outstanding was in fact £1,427.31. This new calculation had been prepared but no amendment had been made to the written representations made by the Applicant and to the application itself.

The Respondent indicated that she accepted that she was due the sum as stated in the application namely the £578. Her position however was that she believed that she was entitled to an interest payment in relation to the £500 deposit which she made in the year 2000. The difficulty with that interest payment is that the calculation that had been provided was provided by the Applicant. The actual document simply suggested a fixed rate of interest per annum which simply could not be right over the 14 years in which it was to be applied. Accordingly the Tribunal were entirely unclear as to what interest could have been applied here.

On the basis that the Tribunal was satisfied that the amount due both in terms of the application and in terms of what the Respondent had accepted was £578 that is the award that was made by the Tribunal. The Tribunal could not determine any interest figure.

There was then consideration given to time to pay for the applicant. The Applicant offered £5 per month but at £5 per month it would have taken approximately 120 months to pay off the debt. The Tribunal were not prepared to accept £5 per month and accordingly granted the order without time to pay.

## Decision

That the Respondent pay to the Applicant the sum of FIVE HUNDRED AND SEVENTY-EIGHT POUNDS (£578) STERLING.

**A landlord, tenant or third party applicant 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.**

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

M.Thorley

Chairperson

7.5.19 date