



**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/18/3395

**Re: Property at 45 Westfairbrae Crescent, Edinburgh, EH11 3SX (“the
Property”)**

Parties:

**Mr Adil Sheikh, Mrs Alyia Sheikh, 98 Chesser Loan, Edinburgh, EH14 1UJ (“the
Applicant”)**

**Mr Muhammed Imran Azam, Ms Shazia Gouse, 45 Westfairbrae Crescent,
Edinburgh, EH11 3SX (“the Respondent”)**

Tribunal Members:

George Clark (Legal Member) and Ann Moore (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the request to amend the application should be
accepted, granted the application as amended and made an Order for payment
by the Respondent to the Applicant of the sum of £3,000.**

Background

By application, received by the Tribunal on 12 December 2018, the Applicant sought an Order for Payment in the sum of £6,000 in respect of arrears of rent which had become lawfully due by the Respondent to the Applicant.

The application was accompanied by a copy Tenancy Agreement between the Parties commencing on 22 July 2018 at a monthly rent of £1,500. There was also provision for payment of a deposit of £3,000. The Applicant also provided a copy of a cheque, dated 17 July 2018, for the sum of £1,500. The cheque had been returned unpaid by the Respondent’s bank and was marked “Account Closed” and “Not Signed in Accordance with Mandate”.

In the application, the Applicant stated that the Respondent had not paid rent from the first payment, the initial cheque having “bounced”. The Applicant believed the

Respondent was in receipt of housing benefit and was also working as a taxi driver, but had made no attempt to even make partial rent payments.

On 29 January 2019, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 15 February 2019.

The Respondent made no written representations to the Tribunal. The Applicant, by e-mail dated 4 February 2019, advised the Tribunal that the rent arrears currently stood at £5,150.

Case Management Discussion

A Case Management Discussion took place on 20 February 2019. The Parties were both present. The Respondent disputed the Applicant's contention that the rent was in arrears, stating that the rent was paid up to date and that he had receipts.

Following discussion, it was agreed that the matter should proceed to a hearing to take place on 3 April 2019 and the Parties were directed to lodge at least 7 days prior to the hearing any documentary evidence of the payment or non-payment of rent.

By e-mail dated 26 March 2019, the Applicant advised that the rent arrears now stood at £3,000 and confirmed that the deposit had not been paid. The Applicant provided images vouching payments totalling £9,000 and stated that the rent due to 22 March 2019 would be £12,000.

The Respondent did not provide any documentary evidence to the Tribunal.

The Hearing

A Hearing took place at George House, 126 George Street, Edinburgh on the afternoon of 3 April 2019. The Applicant, Mr Adil Sheikh and the Respondent, Mr Muhammed Imran Azam, were both present.

The Applicant referred to the email of 26 March and asked to be allowed to amend the application to alter the amount sought to £3,000. The Applicant asked the Tribunal to grant the application as thus amended.

The Respondent accepted that the arrears stood at £3,000, but advised that he was vacating the Property and the rent would be paid up to date at that time.

Reasons for Decision

The Tribunal noted that it was agreed that the rent was in arrears in the sum of £3,000, and that it was the intention of the Respondent to clear the arrears by the date on which he and his family vacate the Property, but, as that date was uncertain and, in any event, the Applicant was seeking the Order for Payment, in case the Respondent did not pay as promised, the Tribunal decided to make the Order. The Tribunal agreed to amend the application to alter the amount sought from £6,000 to £3,000.

Decision

The Tribunal determined that the request to amend the application should be accepted, granted the application as amended and made an Order for payment by the Respondent to the Applicant of the sum of £3,000.

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.

George Clark

Legal Member/Chair

Date: 3 April 2019