



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 88 of the Rent (Scotland) Act 1984**

**Chamber Ref: FTS/HPC/PR/21/3082**

**Re: Property at 29 Kersland Street, Glasgow, G12 8BP (“the Property”)**

**Parties:**

**Dr Michael Lim, 3/1 27 Kersland Street, Glasgow, G12 8BW (“the Applicant”)**

**McMillan & Company Residential Ltd, 15 Hillhead Street, Glasgow, G12 8PU (“the Respondent”)**

**Tribunal Members:**

**Richard Mill (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent must pay the sum of Twenty Five Pounds (£25) to the Applicant**

**Introduction**

This is an application under Rule 87 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017. It is an application to recover an alleged unlawful premium under Section 88 of the Rent (Scotland) Act 1984.

Service of the application and intimation of the Case Management Discussion (CMD) was effected upon the respondent by sheriff officer delivery on 2 March 2022.

Written representations were lodged on behalf of the respondent in advance of the CMD which took place by teleconference on 19 April 2022 at 2.00 pm.

The applicant represented his own interests. The respondent company was represented by Mr Kenneth McMillan.

## FINDINGS AND REASONS

The property is 29 Kersland Street, Glasgow G12 8BP.

The applicant is Dr Michael Lim. He was the proposed tenant of the let property. The respondent is McMillan & Company Residential Ltd who is the heritable proprietor and proposed landlord of the let property.

The extent of the let property amounted to a private room in the property along with shared kitchen and bathroom facilities. The property comprises eight rooms in total which share two communal shower rooms and one large kitchen. The property is subject to an HMO licence. Rooms in the property are offered at a rate of rent which is fully inclusive of heating, electricity, Wi-Fi, council tax and cleaning of communal areas.

The applicant identified the availability of a room within the property on SpareRoom. He was asked to pay a deposit of £425 which he duly paid to the respondent. He subsequently viewed the property and identified that he did not wish to take up occupation of it.

When the applicant requested his deposit to be returned, the sum of £400 was returned with him being advised that the sum of £25 was being retained as an administration fee.

Section 82 of the Rent (Scotland) Act 1984, as amended, prohibits the payment of any premium and section 90 of the Act defines a premium as “any fine, sum or pecuniary consideration, other than the rent, and includes any service or administration fee or charge”

The ‘administration fee’ was therefore an unlawful premium and the applicant is entitled to recover the said sum paid under Section 88 of the said Act.

### **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.**

**R. Mill**

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Legal Member/Chair

**19 April 2022**

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Date