

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 the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules)

Chamber Ref: FTS/HPC/CV/19/1827

Re: Property at Flat 0/2, 69 West End Park Street, Woodlands, Glasgow, G3 6LJ (“the Property”)

Parties:

Mr Muhammed Muqit, c/o Edge Properties Limited, t/a Martin & Co, 172 Woodlands Road, Glasgow, G3 6LL (“the Applicant”)

iResolve Legal, The Centrum Building, 38 Queen Street, Glasgow, G1 3DX (“Applicant’s Representative”)

Mr Adil Mahmood, current whereabouts unknown, previously residing at Flat 0/2, 69 West End Park Street, Woodlands, Glasgow, G3 6LJ (“the Respondent”)

Tribunal Members:

Susanne L. M. Tanner Q.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay the Applicant the sum of SIX HUNDRED AND EIGHTY POUNDS (£680.00) STERLING; and made an Order for Payment in respect of the said sum

STATEMENT OF REASONS

1. Procedural Background

- 1.1. The Applicant's Representative made an Application to the tribunal on 12 June 2019 in terms of Section 16 of the 2014 Act and Rule 70 of the 2017 Rules, seeking an order for payment against the Respondent in the sum of £865.00 in respect of rent arrears and cleaning services.
- 1.2. The documentation with the Application comprised:
 - 1.2.1. Copy Private Residential Tenancy (PRT) Agreement dated 30 July 2018;
 - 1.2.2. Statement of account dated 19 March 2019; and deposit certificate showing deposit payment to the Applicant of £880.
- 1.3. On 14 June 2019, the tribunal's administration confirmed with Landlord Registration Scotland that the Muhammed Muquit is the registered landlord for the Property.
- 1.4. On 2 July 2019, the Application and documentation submitted with it was considered by the legal member of the tribunal with delegated powers of the Chamber President. The Applicant was asked to provide further information as to why the Application was made in the name of a company when the registered landlord was named as Muhammed Muquit.
- 1.5. On 9 July 2019, the Application was amended to change the name of the Applicant.
- 1.6. The Application and documentation submitted with it was considered by the legal member of the tribunal with delegated powers of the Chamber President.
- 1.7. On 24 July 2019, the Application, which comprised documents received between 12 June and 9 July 2019, was accepted for determination by the tribunal.
- 1.8. A Case Management Discussion ("CMD") was fixed for 9 September 2019. It was cancelled due to failure of service of documentation by the tribunal on the Respondent.
- 1.9. A CMD was fixed for 3 October 2019 at 1130 and parties were notified of the date, time and place of the CMD and were told that they were required to attend. The Respondent was notified of the date, time and place of the CMD

by service by advertisement between 23 August and 3 October 2019. Parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application, which may involve making or refusing a payment order. Parties were advised that if they do not attend the CMD that would not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was invited to submit written representations in response to the Application by 28 August 2019.

1.10. Directions were issued dated 24 August 2019 requiring the Applicant to produce information and documents by 9 September 2019. The Applicant's Representative produced some information on 10 September 2019.

1.11. The Respondent did not submit any written representations or make any contact with the tribunal up to and including the date of the CMD on 3 October 2019.

2. CMD: 3 October 2019 at 1130h, Glasgow Tribunals Centre, 20 York Street, Glasgow

2.1. Mrs Mandy Robertson from the Applicant's Representative attended on behalf of the Applicant.

2.2. The Respondent did not attend or make any contact with the tribunal. The tribunal was satisfied that the requirements regarding giving notice of a hearing had been duly complied with and proceeded with the application upon the representations of the party present and all material before it.

2.3. Mrs Robertson apologised on behalf of the firm that all of the documentation which was meant to be lodged in response to the Direction had not been lodged. She stated that the principal solicitor was on annual leave when the correct documentation should have been sent. She produced:

2.3.1. Notice to Leave signed by the Landlord on 28 December 2018;

2.3.2. Statement of Account (a duplicate of that already lodged with the Application; and

2.3.3. Invoice for the cleaning dated 19 March 2019, sum of £185.00.

2.4. She also produced a check in report but had non check out report for the Property. She stated that the Applicant's primary interest was in recovering rent arrears. The Applicant is claiming two months rent arrears in the sum of £1560.00. In addition he is claiming cleaning of £185.00. The total £1745.00. The deposit was returned in the sum of £880.00 because of rent arrears.

That leaves the outstanding sum sued for at £865.00. Denise Sutherland in the Applicant's office said that they applied to the deposit protection scheme for rent arrears. There is no documentation about the deposit claim. The Check in report was provided showing the standard of cleaning at the start. They have not sent a check out report. Their position is that they cleaned for the next tenant. After some further discussion the Applicant's Representative confirmed that she was not insisting on the claim for rent arrears and wished to amend the claim to seek the outstanding rent arrears of £680.00. Mrs Robertson referred to the PRT and the Statement of Account produced showing the amounts. No rent was paid in November and December 2018. It was due to be paid on 30 November and 30 December 2018 and was not paid. The rent arrears after repayment of the deposit of £880.00 is £680.00.

3. The tribunal makes the following findings-in-fact:

- 3.1. There was a Private Residential Tenancy between the Applicant and the Respondent dated 30 July 2018.
- 3.2. The lease start date was 30 July 2018.
- 3.3. The rent payable in terms of the lease was £780.00 per calendar month payable monthly in advance on the 30th of each month.
- 3.4. The Notice to Leave from the Applicant to the Respondent is dated 29 December 2018.
- 3.5. The Respondent did not make payments of rent due on 30 November and 30 December 2018.
- 3.6. The rent arrears for November and December 2018 are £1560.00.
- 3.7. The Applicant received the Applicant's deposit of £880.00 in respect of a payment towards rent arrears.
- 3.8. The amount of rent arrears lawfully due by the Respondent to the Applicant after deduction of the deposit payment is £680.00.

4. **Decision**

- 4.1. The tribunal determined on the basis of the Application (including supporting documents) and the oral representations made on behalf of the Applicant; and in the absence of written or oral submissions from the Respondent; that the Applicant had proved that the Respondents owes the Applicant the amended sum of £680.00 sought on behalf of the Applicant and made an order for payment by the Respondent to the Applicant for the said sum.

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.

3 October 2019

**Susanne L. M. Tanner Q.C.
Legal Member/Chair**