



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016**

**Chamber Ref: FTS/HPC/CV/23/2522**

**Re: Property at 13 Talisman Road, Aberdeen, AB10 7EQ (“the Property”)**

**Parties:**

**Mr Peter Jonathan Lawrence, 72 London Road, Kings Lynn, Norfolk, PE30 5EU (“the Applicant”)**

**Miss Courtney Marr, Mr James Robert Birss, 21 Eday Road, Aberdeen, AB15 6JH (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (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 the sum of £1,566.76 should be granted in favour of the Applicant.**

- **Background**

1. This was the first case management discussion (CMD) in respect of an application by the Applicant dated 26<sup>th</sup> July 2023 for an order for payment of arrears of rent and expenses, from the Respondents who were the Tenants in a Tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

- A copy of a Tenancy Agreement dated 28<sup>th</sup> January 2022 between the Applicant as Landlord and the Respondent who was the Tenant.
- Statement of rent arrears showing a sum outstanding as at 12<sup>th</sup> July 2023 when deposit was reclaimed of £1566.76.

- Copy emails between the Respondents and the letting agent regarding rent arrears.
  - Copy invoice from Elite Detectives for £200 in respect of a trace fee.
2. Prior to the CMD the Tribunal sent a direction asking for a full copy of the lease, clarification of the legal basis of claiming the trace fee and asking what date the tenancy ended. The Tribunal also asked what the sum of £496.21 referred to on the rent statement. The Applicant sent a full copy of the rent statement and advised that he was claiming the trace fee as an expense of the application; and that the sum of £496.21 was in respect of costs of cleaning and clearing the property after the Tenants left.
  3. The case management discussion (CMD) proceeded today by way of teleconference.
  4. Service was validly affected on the Respondent personally by Service by Sheriff Officers who served the papers on the Respondent on 12<sup>th</sup> September 2023.

- **The Case Management Discussion**

1. The CMD took place by teleconferencing and the Legal Member waited until 14.10 to see if the Respondents were going to join the call. The Respondents did not join and were not represented at the CMD. The Respondents have not lodged any written submissions for the Tribunal to consider. The Applicant attended on the call but was not represented
2. The legal member made introductions and explained the purpose and order of proceedings also advising that the Tribunal could make a decision after a CMD which it could after a hearing if satisfied it was appropriate to do so.
3. The legal member considered it appropriate to continue with the CMD given that intimation had been given to the Respondents and they have not responded in writing or requested any postponement of today's CMD.
4. The Applicant advised that he was seeking an order for payment of rent arrears as set out in the rent statement and the sum of £200 to reimburse him for the cost of tracing the Respondents. He also indicated he wished to claim a sum spent on paying an energy bill the tenants had incurred while living in the Property.
5. He confirmed that the property had been left in a mess with a deep clean being required, and removal of various items left behind. He advised that this cost £496.21 and he thought it had been claimed from the deposit leaving £1566.76 owed in rent.
6. With regard to the fee for the trace the Applicant advised he thought he could claim this under the Tribunal's rule on expenses but when advised that he would have to show that the Respondents in their conduct of the case have caused unreasonable or unnecessary expense he said he would remove that claim. The Applicant also on being asked what right or duty he had to pay an energy bill incurred by the tenants, which would give the Tribunal jurisdiction to consider this, stated that he would withdraw that claim as he had just wanted to make sure the energy company did not pursue him as they had linked the bill with his account.

## **Findings in Fact**

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 28<sup>th</sup> January 2022
2. The Rent due in terms of the lease is £750 per calendar month payable in advance
3. The tenant had left the property by 9<sup>th</sup> February 2023 when the tenancy ended.
4. The rent outstanding at 9<sup>th</sup> February 2023 is £1820.55
5. The Deposit of £750 and £253.79 has been reclaimed to reduce the arrears of rent.
6. The arrears of rent now due is £1566.76

### **• Reasons for Decision**

7. The parties have entered into a lease where the Respondents had leased the property from the Applicant and had agreed to pay £750 per month in rent.
8. The Respondents have failed to pay the full rent due. The Respondents left on 9<sup>th</sup> February 2023 and had not paid rent on 28<sup>th</sup> November and 28<sup>th</sup> December 2022 and did not pay the pro rata rent due from 28<sup>th</sup> January to the end of the tenancy on 9<sup>th</sup> February. The deposit was reclaimed in full but part was deducted for costs associating with cleaning and clearing the Property with the balance being out towards the rent arrears leaving the sum of £1566.76 due.
9. The Respondent was served notice of this application by sheriff officer on 12<sup>th</sup> September 2023. The Respondents indicated to the Sheriff Officer that they would attend the call but they have not called in and they have not made any written representations. The Applicants have provided a clear rent statement which supports his application.
10. With regard to the claim for sheriff officers tracing fees and energy costs the Applicant has withdrawn those claims and so they have not been considered further.
11. The Tribunal accepts the written evidence and verbal statements made by the Applicant who the Tribunal found clear and credible in his evidence that the rent outstanding as of 9<sup>th</sup> February when the tenancy ended was £1,820.55 and that the balance of the deposit was then put towards the rent due after deductions for sums taken for cleaning and clearing the property, leaving £1,566.76 due in respect of rent arrears. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

### **• Decision**

An order for payment of the sum of £1,566.76 is granted.

## **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.**

**Jan A Todd**

**Legal Member/Chair**

**Date: 18<sup>th</sup> October 2023**