



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71(1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/19/2285

Re: Property at Wallace View, Ferry Road, South Alloa, FK7 7LF (“the Property”)

Parties:

**Mr Kenneth Kendall-Ball, Nyadd Cottage, Blairdrummond, Stirling, FK9 4UN
 (“the Applicant”)**

Mr Archibald Tannock, 56 Victoria Road, Paisley, PA2 9PT (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be dismissed.**

Background

1. By application dated 19 July 2019 the Applicant applied to the Tribunal for an order for payment in respect of issues arising from the lease of the property. The Applicant provided a copy of a Repairing Standards Enforcement Order, Rent Relief Order, lease, Letter from Falkirk Council, and copy correspondence between Applicant and Martin & Co.
2. By Notice of Acceptance dated 1 August 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.
3. Intimation of the Case Management Discussion was sent to the Applicant by post and to the Respondent by Sheriff Officers.

4. Case Management discussions to be held on 11 September, 17 October and 11 December 2019 were postponed and a further Case Management Discussion assigned to take place on 10 February 2020.

The Case Management Discussion

5. A Case Management discussion was held at STEP Stirling on 10 February 2020. The Applicant attended personally supported by his wife Mrs Judy Kendall-Ball. The Respondent did not attend and was not represented. The Tribunal was satisfied that intimation of the Case Management Discussion had been given to the Respondent and determined to proceed in his absence.
6. The Applicant explained that when he had made the application he had also made a letting agent application to the Housing and Property Chamber as he had not known whether it was the landlord or the letting agent that was responsible for retaining the rent and the pet deposit unlawfully.
7. The Applicant confirmed that at a hearing on 1 October 2019 a Tribunal had found against the letting agent, Martin & Co and ordered that they return to him the two month's rent he had paid amounting to £1500.00 and also the £150.00 pet deposit. The applicant confirmed that he had now received payment from Martin & Co.
8. The Applicant also confirmed that he had, following he and his wife moving out of the property, applied to Safe Deposits Scotland for the return of his £750.00 deposit and this had been repaid to him. The Respondent had not authorised its release and he had to wait 30 days for the funds.
9. The Tribunal queried if given that the sums claimed in the application had been already paid there was anything remaining for the Tribunal to determine he Applicant expressed concern that the Respondent was getting away with it. He queried if there was some sanction to be made against the Respondent. The Tribunal explained that it was only able to deal with the Applicant's claim and that any other matters were for other organisations such as the local authority or the police to investigate. It appeared to the Tribunal that the subject matter of the Applicant's claim had been dealt with through the separate proceedings he had raised against Martin & Co under Case reference FTS/HPC/LA/19/2280 and that therefore the applicant might wish to consider withdrawing this application failing which it might be dismissed.

Findings in Fact

10. The Applicant entered into a lease of the property whilst it was subject to a Repairing Standards Enforcement Order and Rent Relief Order.
11. The Applicant paid £1500.00 in rent together with a deposit of £750.00 and a pet deposit of £150.00.
12. The Tenancy was unlawful.

13. The Applicant raised separate proceedings against the letting agents Martin & Co under case Reference FTS/HPC/LA/19/2280.
14. The Applicant was granted an order for payment by the letting agents for inter alia the rent paid of £1500.00 and the pet deposit of £150.00 and has been paid this amount.
15. The Applicant has received back his deposit of £750.00 from Safe Deposits Scotland.

Reasons for Decision

16. The Tribunal was satisfied that the Applicant had received payment of the sums claimed in this application from the letting agents under the proceedings under case reference FTS/HPC/LA/2280. As that dealt with all matters it followed that this application should be dismissed.

Decision

17. The Tribunal having heard from the Applicant and considered the documents submitted dismissed the application.

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.

G. Harding

Legal Member/Chair

10 February 2020

Date