

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 Section 71 (1) of the Private Housing
(Tenancies) (Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/19/2762

Re: Property at 20 Torburn Avenue, Glasgow, G46 7RB (“the Property”)

Parties:

Mrs Carine Murray, 20 Torburn Avenue, Glasgow, G46 7RB (“the Applicant”)

Mr Kyle Bagen, 66 Easdale, East Kilbride, G74 1DL (“the Respondent”)

Tribunal Members:

Sarah O'Neill (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 payment by the respondent of the sum of £900 should be granted in favour of the applicant.

Background

1. An application was received on 4 September 2019 seeking a payment order brought in terms of rule 111 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).
2. The applicant was seeking payment of outstanding rent arrears of £900 from the respondent in relation to the property, being the amount of arrears outstanding as at 28 January 2019.
3. The application included a copy of the tenancy agreement; a rent statement showing the rent arrears outstanding as at 28 January 2019 to be £1500; and various email correspondence between the applicant and the respondent regarding payment of the outstanding rent arrears.

4. Notice of the case management discussion (CMD) scheduled for 30 October 2019, together with the application papers and guidance notes, had been served on the respondent on 1 October 2019 by sheriff officers on behalf of the tribunal.
5. No written representations or time to pay application were received from the respondent prior to the CMD.

The case management discussion

6. A CMD was held on 30 October 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was present and gave evidence on her own behalf. She was accompanied by her husband, Mr Thomas Murray. The respondent was not present or represented. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a case management discussion had been duly complied with. The tribunal delayed the start of the discussion by 10 minutes, in case the respondent had been detained. He did not appear, however, and no telephone calls or messages had been received from him. The tribunal therefore proceeded with the case management discussion in the absence of the respondent.
7. The applicant asked the tribunal to grant an order against the respondent for the sum of £900. She said that the respondent had owed rent arrears of £1500 when he left the property, and the tenancy deposit of £600 had been returned to her by the approved tenancy deposit scheme, with his agreement. She said that no other payments had been made, despite the respondent having promised to make payments towards the arrears on a number of occasions, as evidenced by the email correspondence submitted with the application.

Findings in Fact

8. The tribunal made the following findings in fact:
 - The tribunal was satisfied that there was a valid private residential tenancy in place between the parties.
 - The applicant was the landlord in terms of the tenancy agreement between the parties signed on 28 July 2018 and commencing on the same date. The title deed for the property showed that the applicant was the owner of the property.
 - The rent due under the tenancy agreement was £600 per calendar month payable in advance on the 28th of each month.
 - As at 28 January 2019, the respondent owed the applicant the sum of £1500 in rental payments.

- The respondent left the property on 6 March 2019.
- The respondent had paid to the applicant a tenancy deposit of £600 at the start of the tenancy. This had been returned to the applicant by SafeDeposits Scotland following the termination of the tenancy.

Reasons for Decision

9. Having considered all of the evidence before it, the tribunal was satisfied that the respondent owed a total of £900 in rent arrears to the applicant. It was clear from the email correspondence before the tribunal that the respondent was aware of the outstanding arrears, and had stated on a number of occasions that he would make payment towards these, but had not done so.
10. The tribunal therefore decided to make an order for payment by the respondent to the applicant of the sum sought.

Decision

The tribunal grants an order for payment by the respondent to the applicant for the sum of £900.

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.

S O'Neill

Legal Member/Chair

Date

30/10/19