



**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/19/3302

**Re: Property at Flat 3/2, 182 Strathmartine Road, Dundee, DD3 8DQ (“the
Property”)**

Parties:

Ms Ann Banks, C/O 7 South Tay Street, Dundee, DD1 1NU (“the Applicant”)

**Miss Robyn-Leigh Rice, Flat 3/2, 182 Strathmartine Road, Dundee, DD3 8DQ
 (“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 payment should be granted.**

1. A second Case Management Discussion (CMD) was held at 10am on 27th February 2020 at Dundee Carer’s Centre Dundee. The Applicant was not present in person but was represented by Mr Neil Dymock of Easylets Ltd.
2. The respondent did not attend, nor did anyone appear on her behalf. There had been no reason intimated in advance for her non-appearance nor any request made for a postponement of the CMD. The Tribunal noted that valid intimation of the CMD had been made to the Respondent by letter dated 23rd January 2020.
3. Accordingly the Tribunal proceeded to hold the CMD in the absence of the Respondent.

The Case Management Discussion

4. There were no written representations received from the Respondents.

5. This is an application under Rule 111 of the Tribunal's rules for an order for payment of £1667.88. The application was submitted on 8th October 2019 and was accompanied by a copy of the tenancy agreement and a copy rent statement showing the sum due as of 26th September 2019 was £1667.88.
6. At the first CMD held on 17th December Mr Dymock appeared for the applicant and advised that the tenant had fallen into arrears of rent although he stated that she had just started paying more rent recently and that she might be receiving universal credit.
7. The Respondent had entered into a lease of the Property from the Applicant which commenced on 26th October 2018. The Applicant is the owner of the Property and the Respondent was obliged in terms of the lease to pay £450 per month.
8. At the date of raising this application for an order for payment for rent arrears the Respondent owed £1667.88 as per the rent statement lodged with the application.
9. At the CMD on 17th December Mr Dymock asked for the case to be adjourned to allow him to see if the Respondent made further payments towards the arrears and started paying the monthly rental due. He advised that he had served a new Notice to Leave and he was proposing if payments were not forthcoming to raise another eviction action.
10. At today's date Mr Dymock advised the arrears are now £1,865.94, although there have been some payments by the tenant they have been outweighed by the further monthly rent sums that have become due. Mr Dymock lodged a new rent statement showing this.
11. Although the Tribunal had sent a direction earlier asking for a new rent statement and enquiring if another eviction action had been raised neither the Applicant nor Mr Dymock had responded to that. The Tribunal therefore explained that as no increase in the sum sought had been intimated to the Respondent in terms of Rule 14A of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 that the Tribunal could not accept a verbal request to amend to increase the sum today.
12. Mr Dymock confirmed that the Respondent is still living in the Property and he advised he has raised another eviction action with the Tribunal and thought this CMD was going to deal with the eviction action as well. The Legal Member explained that if the application has been accepted by the Tribunal he will receive notification and a new date for that matter to be considered.
13. Mr Dymock then advised he wished to have an order for payment for the original sum claimed made today.

Findings in Fact

14. The parties entered into a lease of the Property which was dated and which commenced on 26th October 2018.
15. The Rent due is £450 per calendar month payable in advance
16. The rent outstanding at the date of the application was £1667.88.
17. The Rent outstanding at today's date is £1,865.94
18. There appears to be a deposit paid in terms of the lease

19. The Respondent is still living in the Property and further rent is accruing.

• **Reasons for Decision**

20. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £450 per month in rent.

21. The Respondent has failed to pay the full rent due and although further sums have been paid since December namely over £1000 further rent sums amounting to more than that have accrued leading to an overall increase in the sums due.

22. As the Applicant has not given notice of her request to increase the sum claimed nor has the revised sum been intimated on the Respondent the Tribunal cannot accept an application to amend the sum due today and the Applicant therefor sought to have a payment order granted for the original sum.

23. The Tribunal accepts the written evidence and verbal statements made by the Applicant's agent that rent is outstanding which amounts to at least the original sum claimed and in the absence of any response from the Respondent finds it fair and appropriate to make an order for payment today.

24. The Applicant is still living in the Property and therefor it is not appropriate to consider the deposit at this time.

25. There being no application for time to pay the Tribunal makes an order for payment of the full sum.

Decision

The Tribunal grants an order for payment by the Respondent to the Applicant for the sum of £1,667.88

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 Todd

Legal Member/Chair

27th February 2020
Date

