

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 Regulation 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

Chamber Ref: FTS/HPC/CV/18/0684

Re: Property at 2 Holding, Middlebank, Errol, PH2 7ST (“the Property”)

Parties:

Mr James Handy, Calico, Tealing, By Dundee, Dundee, DD4 0QZ (“the Applicant”)

Miss Natalie Donaghy, Mr Victor Colquhoun, 6 Walker Court, Perth, PH2 8LF (“the Respondents”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision (in absence of the First Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. By application dated 18 March 2018 the Applicant applied to the First-tier Tribunal (Housing and Property Chamber) for a payment order against the Respondents. The Applicant stated that the Respondents owed him the sum of £3302.28 in unpaid rent for the property for the period 1 June 2017 to 31 December 2017.
2. On 28 March 2018 a legal member of the Tribunal with delegated powers of the Chamber President issued a Notice of Acceptance of application in terms of Rule 9 of the First tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.
3. On the 2 May 2018 a copy of the application with supporting documentation was served on the Respondents by Sheriff Officer. Both parties were notified by letter dated 30 April 2018 that a Case Management Discussion would take

place at Inveralmond Business Centre, Auld Bond Road, Perth on 31 May 2018 at 10am.

4. The case called before the Legal Member for a Case Management Discussion on 31 May 2018 at 10am. The Applicant was present. The second Respondent, Victor Colquoun, was also present accompanied by a supporter, Sara Spittel. The First Respondent, Natalie Donaghy, was not present but had provided written representations immediately prior to the case management discussion.

Case Management Discussion

5. The Legal Member first dealt with the preliminary matter of the late submissions received from the First Respondent. The Applicant initially objected to these being received. Following discussion about the contents of the submissions, the Applicant indicated that he was happy to withdraw his objection to same, and wished to continue with the case management discussion.
6. The Legal Member first asked parties about the copy lease produced by the Applicant with his application. Although both Respondents are listed as joint tenants, the lease appears to have been signed by only one person in addition to the landlord. The Applicant advised that the lease had been signed at the property. He had been present, as had both Respondents and a lady from the local authority deposit bond scheme. It was his recollection that both Respondents had signed the agreement and were joint tenants. Mr Colquoun advised the Tribunal that he had indeed been present and his recollection was that he had signed the lease. The signature on the lease lodged with the application does not appear to bear his signature. He identified the signature which appears as that of the First Respondent. Notwithstanding the absence of his written signature on this copy of the lease the Second Respondent was adamant that he was a party to the lease, that he had been a joint tenant and was jointly liable for the rent due.
7. The Legal Member proceeded to discuss the application with the parties. The applicant confirmed that his application related to rent due between 1 June and 31 December 2017. The rent for the property of £800 per month had prior to that been paid in full by the Respondents. Thereafter, part of their rent was paid by housing benefit. The shortfall between the payments received and the rent due was £3302.28 and is still outstanding. He advised that the Respondents vacated the property on 1 May 2018.
8. The written representations from the First Respondent state that the arrears arose when she had to stop work through illness and benefit income for her children stopped when she did not complete a renewal application. Housing benefit was applied for, but did not cover all of the rent, and they were unable to meet the shortfall. She had attempted to terminate the tenancy early but the Applicant had not been willing to allow this. Paperwork lodged with the representations confirmed that the level of the arrears was admitted. The Second Respondent advised the Legal Member that he could not confirm the

level of arrears but equally could not dispute it. He accepted that they had made all payments through the bank and that they had stopped making payments when they could not afford them. When referred to the copy bank statement produced by the Applicant which shows two payments from Ms Donaghy of £400 and £300 and thereafter some payments from the local authority he advised that he thought the statement was accurate and certainly could not dispute the figure claimed. He also confirmed that the only reason for his attendance was that they would struggle to pay it.

Findings in fact

9. The Applicant is the landlord of the property at 2 Holding, Middlebank, Errol
10. The Respondents were the tenants of the property from 1 November 2016 until 1 May 2018 when they vacated the property. The rent due was £800 per calendar month.
11. Between 1 June 2017 and 31 December 2017 the Respondents incurred rent arrears of £3302.28.
12. The sum of £3302.28 has not been paid by the Respondents.

Reasons for decision

13. From the discussion it was established that the Respondents do not dispute the sum claimed by the Applicant. The Respondents admit that they were the tenants of the property during the relevant period and that there had been a shortfall in the payments of rent due to the Applicant. The Second Respondent stated that they are not in a position to settle this sum in the near future and this was confirmed by the First Respondent in her written submissions. The Applicant stated that no payments to the arrears have been made since the application was lodged and that the sum claimed of £3302.28 remains outstanding. This was admitted by the Second Respondent at the case management discussion and by the First Respondent in the written submissions lodged which include a statement of current debts.
14. The Legal Member therefore concludes that the matter does not require to go to an evidential hearing and that an order for payment of the sum of £3302.28 should be made.

Decision

15. The Legal Member accordingly determines that an order for payment by the Respondents of the sum of £3302.28 should be made in favour of the Applicant.

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.

J Bonnar


Josephine Bonnar, Legal Member

31 May 2018