



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/18/0810

Re: Property at 20 Richmond Avenue, Peterhead, AB42 1ZD (“the Property”)

Parties:

Mrs Elizabeth Davies, 48 Boswall Avenue, Edinburgh, EH5 2EB (“the Applicant”)

**Miss Tamara Ewan, Mr Mark Christie, 24 George Square, Inverurie AB51 3XX
 (“the Respondents”)**

Tribunal Members:

Petra Hennig-McFatrige (Legal Member)

Decision in absence of the Respondent Tamara Ewan

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

Procedural Background:

The Applicant is seeking an order for payment of rent arrears for the months of September, October and November 2017 for the property. An application under Rule 70 (Civil Proceedings) was made on 23 March 2018 and the sum outstanding as at that date was stated as £1,776.01 based on the monthly rental payments due of £625 per months and some part payments made by the Tenants prior to moving out.

The Applicant had lodged in evidence bank statements showing payments from 28 July 2017 to 23 January 2018, a bundle of letters and emails from Aberdeen Considine to the Respondents and a copy of the Lease for the property between the Applicant as Landlord and the Respondents as Tenants starting 27 January 2017.

The Tribunal had fixed a case management discussion for 21 June 2018 which was attended by the Applicant and the Respondent Mark Christie. The Respondent Tamara Ewan was unable to attend due to childcare commitments and had notified the tribunal she would not be in attendance.

Service of the notification of the case management discussion and the application had been made by Sheriff Officers on both Respondents at their new address at 24 George Square, Inverurie AB51 3XX on 18 May 2018. No written representations had been received from the Respondents.

The Case Management Discussion

The Applicant explained the difference between the amount due for 3 months rent in terms of the lease and the amount stated in the application arose from some housing benefit payments which had been made prior to the Respondents leaving the property. The Applicant asked how an order would be enforced.

The Respondent Mr Christie explained that there was no dispute of the sum and that both Respondents agree that the amount of £1,776.01 is owed to the Applicant arising from rent arrears. He explained that he had become ill and lost his employment and that both Respondents would seek to pay the amount due in instalments. He also notified the Tribunal of the address change from 10 Church Place, Boddam, Peterhead as stated in the application to the address at 24 George Square Inverurie.

It was explained to the Applicant and the Respondent that the Tribunal could not grant a payment order in instalments. It will be a matter for the Applicant how the order is enforced and the Tribunal does not provide legal advice on that issue.

Findings in Fact:

Based on the written evidence and the evidence provided at the hearing the Tribunal finds in fact that the Respondents are jointly and severally liable for rent arrears for the property to the Applicant for the sum of £1,776.01

Reasons for the Decision:

The Tribunal makes the decision on the basis of the written evidence lodged and the evidence given by the Applicant and Mr Christie at the case management discussion.

The Tribunal in terms of Rule 17 (4) can make a decision at a case management discussion. In this case there is no dispute regarding the evidence and no hearing is thus required.

There is no valid defence to the application and the Respondents confirm that the sum is due and is the correct sum outstanding in rent arrears to the Applicant. There is no dispute about the facts of the case.

Clause 24 of the lease states that if there is more than one Tenant, the obligations in terms of the lease are undertaken jointly and severally.

The financial difficulties of the Respondents provide an explanation for the arrears but are not a defence to the application and do not constitute a justification in law for non payment of rent.

Decision: The order for payment of the sum of £1,776.01 is granted against the Respondents jointly and severally

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

P McFatridge

Legal Member/Chair

Date

21 June 2018