

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) for civil proceedings in relation to matters associated with a tenancy under the Housing (Scotland) Act 1988 and Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017

Chamber Ref: FTS/HPC/CV/18/1012

**Re: Property at 5/7 Great Cannon Bank, Edinburgh, EH15 1TN
("the Property")**

Parties:

**Miss Melanie McSherry, 68 Adelphi Place, Edinburgh, EH15 1BE
("the Applicant")**

**Miss Cristina Liliana De Sousa Ribeiro, 5/7 Great Cannon Bank, Edinburgh,
EH15 1TN
("the Respondent")**

Tribunal Members:

**Susanne Tanner Q.C. (Legal Member)
David Fotheringham (Ordinary Member)**

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the tribunal") determined that the Respondent should pay the Applicant the sum of FOUR THOUSAND SIX HUNDRED POUNDS (£4,600.00) STERLING; and made an Order for Payment in respect of the said sum.

1. On 26 April 2018, the Applicant made an Application to the tribunal "the Application") under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules") for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988 ("the 1988 Act").

2. In the Application the Applicant sought payment from the Respondent of the restricted sum of £3000.00 Sterling, in respect of rent arrears under the Short Assured Tenancy between the parties dated 14 June 2017.
3. The sum sought by the Applicant in the Application represented rent arrears as shown on a rental statement dated 22 April 2018 for the period 4 June 2017 to 22 April 2018, which was lodged with the Application.
4. On 3 May 2018 the Application was referred to a tribunal. The case was listed alongside a related case EV/18/1190 and a hearing was scheduled for 10 August 2018. Both parties were notified.
5. On 19 June 2018, the Applicant lodged bank statements for the period from 25 April 2018 to 14 June 2018 together with an updated rental statement for the period from 4 June 2017 to 14 June 2018.
6. An oral hearing on the Application took place on 10 August 2018 at George House, 126 George Street, Edinburgh. The Applicant attended. The Respondent did not attend.
7. At the hearing the Applicant amended her application to seek the sum of £4600.00, with the consent of the tribunal, in terms of Rule 13 of the 2017 Rules.
8. At the hearing the Applicant lodged, with the permission of tribunal bank statements for the period of 30 May to 31 July on the basis that there was a reasonable excuse in terms of Rule 22(2) in that they were not available until after 31 July.
9. The Applicant stated that the last rental payment credited to her account was £100 on 24 April, as per the rental statement and bank statement which have been produced. The bank statements lodged show that the initial deposit payment was made by Miss De Souza on 15 May 2017 and rent payments of £1000 and £67 were made by her on 9 and 15 June 2017. Thereafter payments were made on her behalf by Mr Piotr Dlugosz as follows: £800 on 14 July 2017; £800 on 11 August 2017; £800 on 11 September 2017; £600 on 13 October 2017; £700 on 14 November 2017; £200 on 17 November 2017; £250 on 5 January 2018; £250 on 19 January 2018; £100 on 29 January 2018; £150 on 12 March 2018; £100 on 19 March 2018; £100 on 26 March 2018; £50 on 9 April 2018 and £100 on 23 April 2018.
10. The Applicant stated that the Respondent and her partner acting on her behalf have made various statements that they would pay some of the rent arrears but that no additional payments have been made. The rental statement represents the position to 14 June 2018. They continue to reside in the Property despite the tenancy having been brought to an end at its termination date on 14 June 2018 by the service of a Notice to Quit.
11. The Respondent did not submit any written representations within the timescale stipulated by the tribunal or attend the hearing of which she had been notified.

12. The tribunal made the following findings-in-fact:

- 12.1. The Respondent had a Short Assured Tenancy with the Applicant in respect of the Property, dated 14 June 2017.
- 12.2. The period of the tenancy was 14 June 2017 to 14 June 2018.
- 12.3. The rent lawfully due in terms of the tenancy was £800 per calendar month.
- 12.4. As at 14 June 2018 the Respondent had rent arrears of £4,600.00.

Decision

13. The tribunal determined on the basis of the Application (including supporting documents) and the oral representations made on behalf of the Applicant; and in the absence of written or oral submissions from the Respondent; that the Applicant had proved that the Respondent owes her the sum sought. The tribunal determined that an Order for Payment should be made in respect of the full sum sought by 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.

Susanne Tanner

Susanne L M Tanner Q.C.
Legal Member/Chair

10 August 2018