

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/18/2271

Re: Property at 151 Ferry Road, Edinburgh, EH6 4NJ (“the Property”)

Parties:

**Mrs Julia Ramage, 3 Hermitage Gardens, Edinburgh, EH10 6DL
 (“the Applicant”)**

**Harper McLeod LLP, Solicitors, Citypoint, 65 Haymarket Terrace, Edinburgh,
EH12 5HD
 (“the Applicant’s Representative”)**

**Mr Robert Harris, 151 Ferry Road, Edinburgh, EH6 4NJ
 (“the Respondent”)**

Tribunal Members:

Susanne L. M. Tanner Q.C. (Legal Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay the Applicant the sum of THREE THOUSAND SEVEN HUNDRED AND FIFTEEN POUNDS AND TWENTY EIGHT PENCE (£3715.28) STERLING; and made an Order for Payment in respect of the said sum.

STATEMENT OF REASONS

1. Findings-in-fact

- 1.1. There is a Short Assured Tenancy agreement between the parties dated 26 August 2017 in respect of the Property.
- 1.2. The tenancy started on 27 August 2017 and was continuing as at 28 August 2018.
- 1.3. The rent payable by the Respondent in terms of the tenancy agreement was £900 per calendar month payable on 27th of each month.
- 1.4. As at 28 August 2018 the rent arrears amounted to £3715.28.
- 1.5. No payments in respect of the arrears have been made by the Respondent to the Applicant in the period from 28 August 2018 to 21 November 2018.

2. Procedural background

- 2.1. On 28 August 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").
- 2.2. In the Application the Applicant sought payment from the Respondent of the sum of £3715,28, in respect of rent arrears under the short assured tenancy between the parties for the period from 27 August 2017 to 28 August 2018.
- 2.3. The Applicant lodged with the Application:
 - 2.3.1. A paper apart headed "Section 5, Reasons for making the Application and the order being sought."
 - 2.3.2. The Short assured tenancy agreement dated 26 August 2017.
 - 2.3.3. A copy of rent statements for the periods 27 August 2017 to 19 July 2018 and 27 August 2017 to 19 August 2018.
- 2.4. The sum sought by the Applicant represents rent arrears as shown on the rental statement as being outstanding as at the date of making the Application on 28 August 2018, namely £3715.28.

2.5. On 2 October 2018 the Application was accepted for determination by a tribunal. Both parties were notified by letters dated 29 October 2018 of the date, time and place of a Case Management Discussion in relation to the Application on 21 November 2018. The Respondent was invited to make written representations in response to the Application by 16 November 2018.

2.6. The Respondent did not submit any written representations.

3. Case Management Discussion (“CMD”) – 21 November 2018 at 14.00h at George House, 126 George Street, Edinburgh

3.1. A CMD took place at George House, 126 George Street, Edinburgh on 21 November 2018. It was held together with a CMD in the conjoined Application for an order for Possession Ref: EV/18/2270.

3.2. Mr Lewis Kemp, Solicitor from the Applicant’s Representative attended on behalf of the Applicant. The Respondent attended.

3.3. The tribunal chair explored with the parties how the parties’ dispute may be efficiently resolved and considered whether to do anything it may do at a hearing, including making a decision in terms of Rule 17 of the 2017 Rules.

3.4. The tribunal had already heard submissions from parties in relation to the related Application and had made a decision to make an order for possession in respect of the Property on the basis that Ground 8 of Schedule 5 to the Housing (Scotland) Act 1988 had been met, in that there were at least three months’ rent arrears at the date of the service of the notice in terms of Section 19 of the 1988 Act and at the date of the CMD hearing. Reference had already been made to rent statements by both parties and the Respondent accepted all of the figures shown in the rent statements. The Respondent accepted that as at the date of the Application the rent arrears amounted to £3715.28.

3.5. The Applicant’s Representative confirmed that there was no application to amend the Application to increase the sum sought to reflect the fact that the rent arrears had continued to accrue since the date of making the Application.

3.6. The tribunal was satisfied that rent arrears in the sum of £3715.28 were lawfully due by the Respondent to the Applicant and made an Order for Payment in respect of the said 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.

S Tanner

21 November 2018

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