



**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/19/0148

**Re: Property at 1 The Vaults, 2 Giles Street, Edinburgh, EH6 6DJ (“the
Property”)**

Parties:

**Miss Ann Wilkinson, 1 The Vaults, 2 Giles Street, Edinburgh, EH6 6DJ (“the
Applicant”)**

**Ms Yvonne Bennett, 15/4 West Newington Place, Edinburgh, EH9 1QU (“the
Respondent”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the Applicant was entitled to an order for payment
by the Respondent to the Applicant in the sum of £2415.00**

Background

1. By application received by the Tribunal on 15 January 2019 the Applicant applied to the Tribunal for an order for payment in respect of rent arrears due by the Respondent from her lease of the property amounting to £2646.57.
2. The Applicant provided the Tribunal with a copy of the Tenancy Agreement and a Rent Ledger in support of her application.
3. By Notice of Acceptance dated 26 February 2019 a legal member of the Tribunal with delegated powers accepted the application and a case management discussion was assigned.

4. Intimation of the case management discussion was given to the Applicant by post on 19 March 2019 and to the Respondent by Sheriff Officers on 20 March 2019.
5. The Respondent made written representations to the Tribunal by email on 8 April 2019.

The Case Management Discussion

6. The case management discussion was held on 10 April 2019 at Riverside House , 502 Gorgie road, Edinburgh. It was attended by both parties.
7. The Applicant confirmed to the Tribunal that the parties had entered into a Short Assured Tenancy Agreement that commenced on 9 February 2016 and was eventually terminated on 3 October 2018.
8. The Applicant confirmed that the monthly rent was £625.00.
9. According to the Applicant the rent owed by the Respondent at the end of the lease was as detailed on the Rent Ledger lodged with the application. This showed that after the Respondent's deposit had been credited towards the arrears of rent there was a balance due of £2415.00.
10. The Respondent confirmed to the Tribunal that she was in agreement that the duration of the tenancy, the monthly rent and the accumulated arrears at the end of the tenancy were as stated by the Applicant.
11. The Applicant went on to say that in addition to the arrears of rent there had been additional costs incurred at the end of the tenancy including cleaning costs and these accounted for the additional sum sought in the application.
12. The Tribunal pointed out that the only documents provided to the Tribunal were the copy Tenancy Agreement and the Rent Ledger. Furthermore the application only made reference to unpaid rent amounting to £2647.57 and not to any other issues. It therefore appeared to the Tribunal that if the Applicant was now wanting to claim for additional costs incurred that would mean introducing by way of amendment new issues in terms of Rule 14 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations"). If the Applicant wished to avail herself of that procedure it would be necessary to adjourn the case management discussion to allow time for written amendment to be lodged and intimated and the Respondent given time to respond and make her own representations and a further case management discussion fixed. If the issues were disputed then it may be that the matter would then require to have a hearing assigned at which evidence would be led.
13. Having considered matters the Applicant decided not to proceed with amendment of her application and was content for the application to be determined as it was currently before the Tribunal. The Applicant understood

that this would mean the Tribunal could grant an order for payment in the sum of £2425.00.

14. The Tribunal indicated to the parties that as the debt of £2415.00 had been acknowledged by the Respondent it would be open to the Tribunal to make an order for payment of that amount but in advance of doing so queried whether the Respondent wished to make an application under the Debtors (Scotland) Act 1987.
15. The Respondent explained that due to her financial circumstances she was not in a position to make an offer to pay by instalments that would be likely to be accepted by the Applicant or the Tribunal but as she had mentioned in her written representations she was optimistic that a PPI claim that was currently with the Financial Ombudsman would be successful. The Respondent explained that she could not provide a timescale for her application, being determined. In all the circumstances it did not appear that the Respondent was in a position to ask the Tribunal to make a Time to Pay Direction and the Respondent had not completed an application form.
16. The Applicant queried how she could obtain payment if the order was granted and the Tribunal explained it could not provide advice. It would be up to the Applicant to enforce any order or reach an agreement with the Respondent.

Findings in Fact

17. The parties entered into a Short Assured Tenancy Agreement that commenced on 9 February 2016 and endured until 1 September 2016 and from month to month thereafter.
18. The tenancy was terminated on 3 October 2018.
19. The Respondent paid a deposit of £725.00 at the commencement of the Tenancy.
20. The monthly rent was £625.00.
21. At the end of the tenancy the Respondent owed the Applicant £3140.00 in rent. The Respondent's deposit of £725.00 was transferred to the Applicant to reduce the rent owed to £2415.00.

Reasons for Decision

22. It was a matter of agreement between the parties that the parties had entered into a Short assured Tenancy at a rent of £625.00 per month. It was further agreed the Respondent had paid a deposit of £725.00 at the commencement of the tenancy. It was also agreed that the Respondent had accrued rent arrears during her tenancy of the property. The Respondent had provided an explanation as to how these had arisen in her written representations to the Tribunal. The final amount of the arrears after the Respondent's tenancy

deposit had been credited to the rent account was agreed in the sum of £2415.00.

23. Although the Applicant had claimed that £2647.57 was due in respect of rent arrears in her application this was not supported by the documentation that was before the Tribunal and ultimately the Applicant decided because of the time it might take to seek to amend her application and have a final determination of the amended issues if allowed heard by the Tribunal not to insist on claiming the higher amount.

24. As it was a matter of agreement between the parties that £2415.00 was due to be paid by the Respondent to the Applicant the Tribunal was prepared to grant an order for payment of that amount. As the Respondent had not asked the Tribunal to make a time to pay direction because of her limited financial circumstances and because she could not say when (if at all) her PPI claim would be paid it did not appear to the Tribunal that a time to Pay Direction in terms of the Debtors (Scotland) Act 1987 would be appropriate. The parties indicated at the end of the case management discussion that they wished to discuss reaching an agreement over payment and the Tribunal indicated there would be nothing to prevent them from doing so but that any such agreement was outwith the jurisdiction of the Tribunal once the order was granted.

Decision

25. Having heard from both parties and considered the documentation lodged the Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £2415.00.

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.

G Harding

Legal Member/Chair

Date

10 April 2019