



**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/18/1704

Re: Property at 87 Overhaugh Street, Galashiels, TD1 1DL (“the Property”)

Parties:

**Europe Investments Limited, incorporated in Scotland under the Companies’
Acts (SC155714) and having their registered office at 30 East Main Street,
Darvel, KA17 0HP (“the Applicants”)**

Ms Kellie-Marie Carter, 4 Fisher Avenue, Hawick, TD9 9NB (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Parties)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be granted and made an
Order requiring the Respondent to pay to the Applicants the sum of One
Thousand Pounds (£1,000).**

Background

By application, received on 6 July 2018, the Applicants sought an Order for payment by the Respondent of One Thousand Pounds. The Applicants stated that the Respondent had entered into a lease of the Property, commencing on 23 October 2017 and terminating on 22 October 2018, at a rent of £450 per month.

The Respondent had vacated the Property in February 2018, before the contractual period of the tenancy had come to an end. The rent had been paid up to 1 March 2018.

The Applicants had been successful in re-letting the Property with effect from 1 June 2018, but at a monthly rent of £425.

The Applicants had recovered the deposit of £450 from MyDeposit Scotland. This covered the unpaid rent for March 2018.

The Applicants were, therefore, seeking an Order for payment of the rent which would have been due for the months of April and May 2018, together with an

additional sum of £25 per month from 1 June 2018 to 30 September 2018, to compensate them for the amount they would lose through the new rent being £25 per month lower from the date the Property was re-let to the date on which the contractual tenancy would have come to an end. The total sum they sought was, therefore, One Thousand Pounds.

On 25 September 2018, the Tribunal advised the Parties of the date and place of a Case Management Discussion and the Respondent was invited to make written representations by 4 October 2018. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held at Langlee Community Centre, Marigold Drive, Galashiels on the afternoon of 11 October 2018. The Applicants had, in advance, indicated that they were unable to attend the Case Management Discussion. The Respondent was neither present nor represented.

Findings in Fact

- The Respondent was contractually bound to pay rent at £450 per month from 23 October 2017 until 22 October 2018. The last rental payment should, therefore, have been made on 23 September 2018.
- The Respondent did not make any rental payments for the period beyond 1 March 2018, but the payment for March was recovered by the Applicants through the tenancy deposit scheme.
- The Applicants re-let the Property from 1 June 2018, but at a rent of £425 per month, producing a monthly “shortfall” of £25.

Reasons for Decision

In terms of Regulation 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was of the view that it had before it all the information it required to make a decision, there having been no written representations from or appearance by the Respondent. Accordingly, the Tribunal determined to decide the application without a hearing.

The Respondent was legally liable to continue paying rent until 22 October 2018, or the date on which the Property was re-let, whichever date was the earlier. The Property had been re-let from 1 June 2018, so the arrears of rent were £900, the payments due for the months of April and May 2018. In addition, the Respondent was under a legal obligation to make up any shortfall on rent from 1 June 2018 down to 22 October 2018. The Property had been re-let at £425 per month, so the Respondent was liable for the shortfall on payments that she would have been due to make on 22 June, 22 July, 22 August and 22 September 2018. This made the sum due by the Respondent the amount requested in the application, namely One Thousand Pounds.

Decision

The Tribunal determined to make a decision on the application without a hearing and that the application should be granted and an Order made requiring the Respondent to pay to the Applicants the sum of One Thousand Pounds.

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.

George Clark

Legal Member/Chair

11 October 2018

Date