



**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/18/1963

Re: Property at 48 Finavon Terrace, Dundee, DD4 9ED (“the Property”)

Parties:

**Mr David Wallace, 4 John Grahame Avenue, Claverhouse, Dundee, DD4 9RF
 (“the Applicant”)**

**Miss Stacey Strachan, Mr Sean Thomas Fitzpatrick, Flat 2/L, 22 Grampian
Gardens, Dundee, DD4 9QZ (“the Respondents”)**

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondents)

**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 Respondents to the Applicant in the sum of £260.00**

Background

1. By application dated 27 July 2018 the applicant applied to the Tribunal for an order under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”).
2. The Applicant was claiming the sum of £260.00 in respect of rent arrears said to be due by the Respondents at the end of their tenancy of the property on 4 April 2018.
3. In support of his application the Applicant provided the Tribunal with a copy of the Tenancy Agreement and a rent ledger showing the alleged level of rent arrears.

4. By Notice of Acceptance dated 13 August 2018 a legal member with delegated powers accepted the application and the case was sent to a Case Management discussion to take place on 11 October 2018 at Dundee Cares Centre, Seagate House, 132-134 Seagate, Dundee.
5. Intimation of the Case Management discussion was given to the Applicant by post and to the Respondents by Sheriff Officers.
6. On 4 October 2018 the Applicant advised the Tribunal that he was working overseas and was unable to attend the Case Management Discussion. The Applicant had previously advised the Tribunal that due to his work commitments overseas it was unlikely that he could attend any hearings of the Tribunal. The Applicant requested that the Tribunal deal with his application in his absence on the basis that he had supplied all the necessary documents and paperwork to warrant his claim.

The Case Management Discussion

7. There was no appearance by the Respondents at the Case Management Discussion. The Applicant had previously explained he was unable to attend.
8. The Tribunal took the view that it could in terms of Rule 18 of the Rules make a decision without a hearing if :
 - (i) Having regard to such facts as are not disputed by the parties it is able to make sufficient findings to determine the case; and
 - (ii) To do so will not be contrary to the interests of the parties.
9. The Applicant had said in his application that the Respondent's deposit had been returned to him from Safe Deposits in respect of rent arrears and that the remaining balance as shown on the rent ledger amounted to £200.00. There was in addition a further £60.00 due in respect of the period from 1 April to 4 April 2018 when the Respondents finally vacated the property.
10. The Respondents had not made any written representations to the Tribunal nor had they attended the Case Management Discussion. It therefore did not appear that they were disputing any of the facts as stated by the applicant in his application.
11. It therefore appeared to the Tribunal that it could make a decision without a hearing and after taking account of the information provided by the Applicant.

Findings in Fact

12. The parties entered into a Short Assured Tenancy that endured from 1 October 2015 until 30 September 2016 and then continued on a month to month basis until the Respondents vacated the property on 4 April 2018.

13. As at 4 April 2018 the Respondents were due the Applicant rent of £710.00.

14. The Applicant recovered the Respondents deposit of £450.00 from Safe Deposits and applied this to the rent arrears leaving a balance due of £260.00.

15. The Applicant is entitled to payment by the Respondents in the sum of £260.00.

Reasons for Decision

16. The Applicant provided sufficient explanation in his application and supporting documentation to support his claim and in the absence of any opposition from the Respondents the Tribunal was entitled to accept the Applicants position as being factually correct.

17. Given the applicant's overseas work commitments and the difficulty in finding a date when he could attend a hearing and given that the Respondents had not shown any interest in the proceedings the Tribunal considered it would not be contrary to the interests of the parties to make a decision without a hearing.

18. The Tribunal was satisfied that the Respondents owed the Applicant rent of £260.00 and the Applicant was therefore entitled to an order for this amount.

Decision

19. The applicant is entitled to an order for payment by the Respondents in the sum of £260.00.

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.

Graham Harding

11 October 2018
Date