



**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/18/1973

Re: Property at 18 Newton Road, Dundee, DD3 0LT (“the Property”)

Parties:

Mr Nicholas Milligan, 45 Orchard Brae Gardens, Edinburgh, EH4 2HQ (“the Applicant”)

Mr Kevin McGregor, Ms Kirsty Reilly, 76 Haldane Terrace, Dundee, DD3 0JF (“the Respondents”)

Tribunal Members:

Petra Hennig-McFatrige (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £1350 by the Respondents to the Applicant should be granted.

Procedural Background:

The Applicants are seeking an order for payment of rent arrears for the property. An application in terms of Rule 70 (Civil Proceedings) was made on 31 July 2018 and the sum outstanding stated as at the time of the application was £2,025, based on a monthly rent of £675.

The Applicant lodged the Short Assured Tenancy Agreement dated 29 October 2017 and a bank account printout showing payments of £675 by KREILLY on 5.1.2018 and 7.2.2018 but no such payments on the March, April and May statements. The documents are referred to for their terms and held to be incorporated herein.

The Case Management Discussion was set to be heard on 2 October 2018 but a postponement request from the Applicant granted and directions issued to the Applicant dated 1 October 2018, which are referred to for their terms and held to be incorporated herein. These were answered by further documentation lodged by the

Applicant under cover letter of 15 October 2018 including the information regarding the deposit, end date of the tenancy, clearer printouts of the bank statements, copy Notice to Quit and S 33 Notice and form AT6 as well as email correspondence regarding the deposit repayment.

A further Case Management Discussion took place on 28 November 2018. Mr Iain MacRae as local agent for Friends Legal, the Applicant's representatives attended. There was no attendance by the Respondents.

The Respondents both had been advised of the date and time and location of the Case Management Discussion by the Tribunal by notification served on them by Sheriff Officers on 7 November 2018. The intimation to the parties included the information that the Tribunal may do anything at a Case Management Discussion which it may do at a hearing, including making a decision on the application.

The Respondent had been given the 14 days notice required in Rule 24 of the Rules of Procedure. No representations were received from the Respondents and they did not attend the Case Management Discussion.

In terms of Rule 29 the hearing thus took place in their absence.

The Hearing:

Mr MacRae for the Applicant stated that the Applicant was seeking payment of £1,350, which represents two months rent, as the deposit has now been released to the Applicant and is available to clear one month rent arrears. The arrears relate to non payment of the rent of £650 per month for the months of March, April and May 2018. The tenants moved out on 28 May 2018. £650 deposit will clear one month arrears.

The Tribunal concluded that as the facts in this case were not disputed by any representations from the Respondent, it was not necessary to adjourn the case to a further hearing.

Findings in Fact:

1. The Applicants and the Respondents entered into a Short Assured Tenancy on 20 October 2017 with an end date at 28 April 2018 (Clause 1.8) with a continuation on a monthly basis (Clause 1.8).
2. Liability for any sums due is joint and several for joint tenants in terms of the definition section of the Tenancy Agreement.
3. The monthly rent is £675 Pounds Sterling per calendar month in advance payable on the 30th day of each calendar month (Clause 1.9).
4. For 2018 only two payments of rent were received for January on 5.1.18 and February on 7.2.18 but no further payments were made.

5. The tenancy ended by the Respondents removing from the property on 28 May 2018.
6. No rent was paid for the months of March, April and May 2018.
7. The deposit of £675 was released to the Applicant by My Deposit Scotland on 17 July 2018.
8. The arrears of rent as at the date of the Case Management Discussion are 2x £675 = £1,350.

Reasons for the Decision:

The Tribunal make the decision on the basis of the written evidence lodged by the Applicant. There is no dispute about the facts of the case. The rent outstanding as per the application was £2,025. £675 deposit have been set against the outstanding sum leaving rent arrears of £1,350. No further payments of rent were made. There was no valid defence to the action. It is not in disputed that the sum applied for is due to the Applicant. The application was for payment of more than the outstanding sum and this had been intimated to the Respondent, who had fair notice of the application. The sum of £1,350 is due jointly and severally by the Respondents to the Applicant.

Decision:

The order for payment of the sum of £1,350 to the Applicant is granted against the Respondents jointly and severally.

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.

Petra Hennig-McFatrige

Legal Member/Chair

28.4.18

Date