

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) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/3335

Re: Property at 3 Monkland Terrace, Glenboig, ML5 2RL (“the Property”)

Parties:

Mr Perwaiz Akhtar, 10 Avonhead Road, Condorrat, Glasgow, G67 4RA (“the Applicant”)

Mr John James McIntyre, Ms Kimberley Bain, 3 Monkland Terrace, Glenboig, ML5 2RL (“the Respondent”)

Tribunal Members:

Sarah O'Neill (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 by the respondents of the sum of £650 should be granted in favour of the applicant.

Background

1. An application was received on 16 October 2019 from the applicant’s representative for a payment order brought in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).
2. The applicant was seeking payment of rent arrears of £650 from the respondents in relation to the property, being the amount of arrears outstanding as at the time of the application.
3. The application included a copy of the private residential tenancy agreement between the parties and a rent statement showing the rent outstanding as at

the date of the Notice to Leave dated 13 September 2019 served on the respondents to be £650.

4. The tribunal instructed sheriff officers to serve notice of a case management discussion (CMD) scheduled for 17 December 2019, together with the application papers and guidance notes, on the respondents. A certificate of service was received from the sheriff officers confirming that the papers had been served on the respondents on 18 November 2019.
5. No written representations or time to pay application were received from the respondents prior to the CMD.
6. An updated rent statement was sent to the respondents and to the tribunal by the applicant's representative on 6 December 2019, showing the outstanding rent arrears due as at that date to be £950.

The Case Management Discussion

7. A CMD was held on 17 December 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was represented by Mr Paul Clark of Aquila Management Services Ltd, Glasgow. The respondents were not present and were not represented.
8. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a CMD had been duly complied with. The tribunal delayed the start of the CMD by 10 minutes, in case the respondents had been detained. They did not appear, however, and no telephone calls, messages or emails had been received from them. The tribunal therefore proceeded with the CMD in the absence of the respondents.
9. Mr Clark asked the tribunal to grant an order in favour of the applicants for £650, the amount stated in the original application. He accepted that the letter of 6 December 2019 sent to the respondents did not meet the requirements of rule 14A of the 2017 rules, as it had not been sent at least 14 days prior to the CMD. He told the tribunal that, rather than adjourn the CMD to a later date in order to submit a new request to amend the sum claimed, the applicant wished to request an order for the original sum claimed.

Findings in Fact

10. The tribunal made the following findings in fact:
 - The applicant was one of the joint landlords in terms of the private residential tenancy agreement between the parties which commenced on 25 January 2019. The title deed for the property showed that he owned the property jointly with Mr Abdul Hallem, who was the other joint landlord. The tribunal

had received written confirmation from the applicant's representative that he was content with the application proceeding in the applicant's sole name.

- There was a private residential tenancy in place between the parties, which had commenced on 25 January 2019.
- The rent due under the tenancy agreement was £450 per calendar month payable in advance on the 25th of each month.
- As at the date of the application, the respondents owed the applicant the sum of £650 in rental payments.

Reasons for Decision

11. Having considered the updated rent statement and all the other evidence before it, the tribunal was satisfied that the respondents were due to pay the sum of £650 to the applicant. The tribunal therefore decided to make an order for payment by the respondents to the applicant of that sum.

Decision

The tribunal grants an order for payment by the respondents to the applicant for the sum of £650.

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 O'Neil

Legal Member/Chair

17/12/19

Date