

**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/20/0608

**Re: Property at Flat 2, 244 Queensferry Road, Edinburgh, EH4 2BP (“the
Property”)**

Parties:

**Mr Jose Antonio Hernandez, 2 March Grove, Edinburgh, EH4 3TE (“the
Applicant”)**

**Ms Alexis Morrison, Flat 2, 244 Queensferry Road, Edinburgh, EH4 2BP (“the
Respondent”)**

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that the application should be decided without a Hearing
and made an Order for Payment by the Respondent to the Applicant of the sum
of £1,746.03, with interest down to the date of its Decision, calculated in
accordance with the provisions of the Private Residential Tenancy Agreement
between the parties.**

Background

By application, received by the Tribunal on 27 February 2020, the Applicant sought an Order for Payment against the Respondent in respect of unpaid rent for the Property that had become lawfully due by the Respondent to the Applicant. The sum sought was £1,746.03. The Applicant also sought interest at 8% per annum on the principal sum.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the parties, commencing on 15 May 2019 at a rent of £1,065 per month and further information showing that the rent due on 1 December 2019, 1 January 2020 and 1 February 2020, totalling £3,195, had not been paid in full, but that

one payment of £307.76 and three payments of £379.68 (a total of £1,446.80) towards the rent had been received from City of Edinburgh Council.

On 10 March 2020, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion and the Respondent was invited to make written representations by 31 March 2020. The Respondent did not make any written representations to the Tribunal.

The Case Management Discussion scheduled for 15 April 2020 was postponed due to the COVID-19 lockdown restrictions.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 21 July 2020. The Applicant was represented in the conference call by Mr Costan De-Tore of J Gibson Associates, solicitors, Edinburgh. The Respondent did not participate and was not represented. The Applicant's representative told the Tribunal that no payments had been received since the date of the application and asked the Tribunal to grant the Order sought without a Hearing.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it could determine the application without a Hearing.

The Tribunal was satisfied that the principal sum sought in the application was lawfully due by the Respondent to the Applicant. The written evidence indicated that the arrears were £1,748.20, but as the sum sought in the application was lower, namely £1,746.03, the Order for Payment would be for the lower sum.

With regard to the application for interest, the Tribunal noted that the Private Residential Tenancy Agreement between the Parties contains a provision that interest on late payment of rent may be charged by the landlord at 8% per annum. The Tribunal regarded this as an extraordinarily high rate of interest, when compared with interest rates in the economy as a whole, but accepted that the Respondent was contractually bound to pay it, should the Applicant demand it. Accordingly, the Tribunal decided to include an award of interest at 8% per annum on the unpaid rent from the date it became due down to the date of the Tribunal's decision. The Tribunal was not, however, prepared to award interest on sums due from the date of its decision until payment.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £1,746.03, with interest down to the date of its Decision, calculated in accordance with the provisions of the Private Residential Tenancy Agreement between the parties.

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



21.7.2020

Legal Member/Chair

Date