



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 Housing (Scotland) Act 2014**

**Chamber Ref: FTS/HPC/CV/21/2414**

**Re: Property at 1/3 Telford Drive, Edinburgh, EH4 2NQ (“the Property”)**

**Parties:**

**Mrs Sakina Yusaf, 28 Ravelston House Park, Edinburgh, EH3 3LW (“the Applicant”)**

**Miss Claire Macfarlane, previously residing at 1/3 Telford Drive, Edinburgh, EH4 2NQ and whose current whereabouts are unknown (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of SEVEN THOUSAND THREE HUNDRED AND NINETY FIVE POUNDS AND TWENTY FIVE PENCE (£7395.25) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

**Background**

- 1. This is an action for recovery of rent arrears raised in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the parties dated 15 June 2016 and a rent statement to 27 September 2021.**

3. On 29 December 2021 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 27 January 2022 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 11 March 2022. This paperwork was unable to be served on the Respondent as her whereabouts were unknown. The CMD assigned for 11 March 2022 was accordingly discharged and a new CMD assigned for 5 April 2022. The application was thereafter served on the Respondent by advertisement in terms of Rule 6A of the Rules. A copy of the Execution of Service was received by the Tribunal administration and placed before the Tribunal.

### **Case Management Discussion**

5. The Tribunal proceeded with a Case Management Discussion on 5 April 2022 by way of teleconference. The Applicant was represented by Mr Dobbie from Saltouns Lettings. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
6. The Tribunal had before it the Short Assured Tenancy Agreement between the parties dated 15 June 2016 and a rent statement to 27 September 2021.
7. Mr Dobbie moved the Tribunal to grant an Order for payment. He explained that the tenancy was terminated on 15 January 2022. Although the rent statement lodged showed arrears of £7395.25 these had increased to £8995.25. They had recovered the full deposit of £800 and applied this to the arrears, He sought a payment order of £8195.25. The Tribunal noted the terms of the rent statement, that in terms of Clause 2 of the tenancy agreement the monthly rent was £800 and that in terms of Clause 3 of the tenancy agreement a deposit of £800 was to be paid.

### **Findings in Fact**

8. The Applicant and the Respondent agreed by way of Clause 2 of a Short Assured Tenancy Agreement dated 8 June 2016 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £800. In terms of Clause 3 the Respondent was obliged to pay £800. The Respondent paid this deposit.
9. The Respondent left the Property on 15 January 2022. The Respondent fell into arrears of rent. The arrears to 15 January 2022 were £8995.25.

10. The Applicant recovered the £800 deposit and applied these to the arrears leaving a sum owing of £8195.25

### **Reasons for Decision**

11. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Dobbie.

12. The Tribunal noted terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to 27 September 2021 as being £7395.25 which was the original sum claimed. The Applicant's representative had produced evidence of persistent non-payment of rent. The Tribunal was not satisfied the Applicant had complied with Rule 14A of the Regulations to increase the sum claimed to £8195.25 and accordingly refused Mr Dobbie's submission that the sum claimed be increased. However the Tribunal was satisfied on the basis of the documents lodged, together with Mr Dobbie's submissions that the order for payment in favour of the Applicant be granted for the original sum claimed of £7395.25.

### **Decision**

13. The Tribunal granted an order for payment of £7395.25.

### **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.**

Shirley Evans

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**Legal Member**

5 April 2022

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**Date**