

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 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/18/1480

Re: Property at 2/14 Hawkhill Close, Edinburgh, EH7 6AB (“the Property”)

Parties:

Mrs Ashiy Mohammed Shafique, 38 Corbiewynd, Edinburgh, EH15 3RP (“the Applicant”)

Ms Anna Chmurzynska, 14/4 Wester Drylaw Place, Edinburgh, EH4 2TW (“the Respondent”)

Tribunal Members:

Colin Dunipace (Legal Member) and David Wilson (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for payment by the Respondent to the Applicant should be made in the sum of Twelve Hundred and Seventy Six Pounds (£1,276) Sterling with interest thereon at the rate of 8 per centum per annum from 25 June 2018.

Background

This Application originally called as a Case management Discussion on 25 October 2018. At that time it was identified that the Applicant was seeking payment in terms of the aforementioned Act in relation to non-payment of rent in respect of the subject property. It was noted that the parties had entered into a Tenancy Agreement on 13 June 2008 and that this tenancy had come to an end on 25 June 2018. The position of the Applicant was that the outstanding arrears of rent were in the sum of £2,076 with interest at the rate of 8% of the daily rent due for each day.

At the Case Management Discussion the Respondent indicated that rent had been withheld as the Applicant had not paid her deposit into an approved

scheme and also because her heating system had been defective, which had necessitated her in making alternative arrangements for Heating.

Hearing

This Application called before this Tribunal for a Hearing in George House, George Street, Edinburgh on 8 January 2019. Both parties were present and neither party was represented at this Hearing.

The Applicant indicated that she was seeking an Order in the sum of £2,076 being the sums due in respect of rent which had not been paid between 13 March 2018 and 25 June 2018 when the tenancy had come to end. The Applicant also sought expenses in respect of any award made.

The Respondent indicated that she was seeking a reduction in this amount as she had been experiencing difficulties with her heating between March and June 2018. The Applicant indicated also that her deposit of £800 had not been returned to her.

In respect of the latter matter the Applicant explained that the rent had been collected by an agency instructed by her known as Excelet. This agency appeared to have gone into liquidation, and the Applicant had never received any sums from this organisation. The Applicant accepted that she was responsible for the loss of this deposit as she had instructed that firm, and indicated that notwithstanding that she felt that it need not be returned to the Respondent, due to repairs which had been necessary upon the termination of the tenancy, that she accepted that she would reduce the sum sought to take cognisance of this amount. The Applicant indicated therefore that she was seeking an Order in the sum of £1,276.

The Respondent indicated that she had accepted that rental was due in relation to the property, but was of the view that the amount of rent should be reduced by £200 per month for the three months in which there had been a difficulty with the heating system. The Respondent accepted that this reduction had effectively been taken into account by the Applicant when reducing the sum sought. The Respondent accepted that the amended amount was accordingly due, although she did express concerns about her ability to pay this sum.

Findings in Fact

1. The parties had entered into a tenancy agreement in respect of the subject property on 13 Jun 2008.
2. The tenancy was terminated on 25 June 2018
3. During the months of March and June 2018 no payments of rent had been made.
4. During the months of April and May reduced payments had been made.
5. The deposit paid by the Respondent on 13 June 2008 had not previously been returned by the Applicant

Decision

Having regard to the matters discussed by the parties it was determined that the sum sought by the Applicant in the sum of £1,276 were due and that it would be appropriate to make and that interest should be due of this principal sum at the rate of 8% per annum from 25 June 2018 until payment.

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.

Colin Dunipace

Legal Member/Chair

8/1/19

Date

*Insert or Delete as required