



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland  
(Housing and Property Chamber)**

**Chamber Ref: FTS/HPC/CV/19/0902**

**Re: Property at Flat 35, The Ironworks, 12 Pilrig Heights, Edinburgh, EH6 5BB  
("the Property")**

**Parties:**

**Picture Living Property Limited, C/O Touchstone, 2 Crescent Office Park,  
Clarks Way, Bath, BA2 2AF ("the Applicant")**

**Mr Jonathan Landau Litewski, Mr Lee Riches, Flat 35, The Ironworks, 12 Pilrig  
Heights, Edinburgh, EH6 5BB ("the Respondents")**

**Tribunal Members:**

**Virgil Crawford (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the  
Tribunal") determined that**

**BACKGROUND**

1. By lease dated 13 February 2017 the Respondents rented the Property from the then proprietors, Places for People Homes Ltd;
2. The rent payable was £650.00 per calendar month;
3. Places for People Homes Ltd sold their interest in the Property (and numerous other properties within their portfolio of rented properties) to Picture Living Property Limited. An application to register the transfer of ownership was received by the Keeper of the Registers of Scotland on 15 June 2018. As at the date of the Case Management Discussion the registration process had not been completed but confirmation of the application was provided and is publicly available;
4. The Respondents fell in to arrears of rent. An application was made to the Tribunal for an order for payment. A separate application was made for an order for recovery of possession of the Property. A notice in terms of s19 of the Housing (Scotland) Act 1988 ("the 1988 Act") – commonly referred to as a

form AT6 – was served on each Respondent on 1 March 2019. The notice intimated an intention to raise proceedings for recovery of possession on the basis of Grounds 8, 11 and 12 of Schedule 5 to the 1988 Act.

5. As at 1 March the rent arrears were in excess of 3 months rent. As at the date of the application to the Tribunal rent was in arrears for a period of 5 months. In advance of the Case management Discussion the Applicant moved to amend the amount claimed by increasing it from £3,350.00 to £4,690.00, reflecting the fact that rent had not been paid for 7 months;
6. The Application proceeded on the basis that rent was due at the rate of £670.00 per calendar month. The lease, however, provided for rent at the rate of £650.00 per calendar month. It made no provision for automatic increases at any time. No evidence was provided to indicate that the rent had been increased nor that the Respondents had agreed to any such increase;
7. As at the date of the Case Management Discussion arrears of rent amounted to 7 months and 10 days. On the basis of the contracted rental payments of £650.00 this amounted to £4,763.70;
8. The Respondents continued to reside in the Property;

## **THE CASE MANAGEMENT DISCUSSION**

9. The Applicants were represented at the Case Management Discussion by Mr N Matheson, Solicitor; Messrs TC Young Solicitors, Edinburgh;
10. The Respondents failed to attend. The Tribunal was in receipt of executions of service by sheriff officers confirming that the place, date and time of the Case Management Discussion had been intimated to the Respondents, together with a copy of the case papers. In the circumstances the Tribunal, being satisfied in terms of Rule 24 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the FTT Rules”) that the Respondents had received reasonable notice of the same determined that it was appropriate to proceed in accordance with Rule 29 of the FTT Rules;
11. Mr Matheson confirmed that the Respondents continued to reside in The Property. Rent was still not being paid;
12. An application by the Applicants to amend the amount claimed by increasing it to £4,690.00 was received by the Tribunal on 20 May 2019. This was to reflect the fact that rent remained unpaid and that as at 31 May 2019 7 months rent would be outstanding. The application to amend was made timeously in accordance with Rule 13 of the FTT Rules. At the Case Management Discussion Mr Matheson moved the Tribunal to amend the amount further to reflect the further 10 days of rent outstanding until the date of the Case Management Discussion. The Tribunal allowed this amendment, however further discussion took place in relation to the contractual amount of rent due;
13. The application to the Tribunal for a payment order, and the proposed increases to reflect further sums now due, proceeded on that assumption that rent was payable at the rate of £670.00 per calendar month. In terms of the lease, however, rent was payable at £650.00 per calendar month. The lease did not provide for any increases in rent. There was no information available to the Tribunal that the Respondents had consented to any increase in rent. In the circumstances, while the Tribunal was willing to allow the Applicants claim to be amended to take account of the rent outstanding as at the date of the

Case Management Discussion, the Tribunal was of the view that the rent due, on the basis of the information available to it, was £650.00 per calendar month;

14. As at 10 June 2019, therefore, the rent outstanding amounted to £4,763.70.

## **FINDINGS IN FACT**

15. The Tribunal found the following facts to be established:-

- a) By lease dated 13 February 2017 the Respondents rented the Property from the then proprietors, Places for People Homes Ltd;
- b) The rent payable was £650.00 per calendar month;
- c) Places for People Homes Ltd sold their interest in the Property (and numerous other properties within their portfolio of rented properties) to Picture Living Property Limited. An application to register the transfer of ownership was received by the Keeper of the Registers of Scotland on 15 June 2018. As at the date of the Case Management Discussion the registration process had not been completed but confirmation of the application was provided and is publicly available;
- d) The Respondents fell in to arrears of rent. As at 10 June 2019, being the date of the Case Management Discussion, the rent outstanding amounted to £4,763.70. That sum is due and payable to the Applicants;

## **DECISION**

The Tribunal grants an order against the Respondents jointly and severally and severally for payment of the sum of FOUR THOUSAND, SEVEN HUNDRED AND SIXTY THREE POUNDS AND SEVENTY PENCE (£4,763.70) STERLING to the Applicants

## **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.

# V Crawford

10 June 2019

Legal Member/Chair

Date