



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/20/0335

Re: Property at 16C Kennedy Road, Troon, KA10 6BZ (“the Property”)

Parties:

Miss Carole Clark, c/o Property Solutions Scotland, 38 Queen Street, Glasgow, G1 3DX (“the Applicant”)

Mr Brian Galloway, 28 Mansfield Road, Tarbolton, Ayrshire, KA5 5RJ and Ms Suzanne Robertson, 121 Logan Drive, Troon, Ayrshire, KA10 6QE (“the Respondents”)

Tribunal Member:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondents in the sum of £3,416.43, together with interest at the rate of 4% above the Clydesdale Bank plc base rate until payment.

Background

- [1] The Applicant submitted an application seeking an order for payment in the sum of £3,214.47. That sum related to arrears of rent, together with the costs and expenses incurred by the Applicant in attempting to recover payment of the arrears of rent. A case management discussion took place on 15th July 2020 and reference is made to the note of that case management discussion. Prior to the last case management discussion, the Applicant made an application to amend the sum sued for to £3,416.43. That amendment application was intimated to the Respondents. The additional sum of £201.96 was sought by the Applicant because she had incurred additional recovery charges. The Tribunal assigned a further case management discussion and intimated the

date, time and conference call details of today's case management discussion to the Respondents.

The case management discussion

- [2] The Applicant was represented by Mr Runciman. The case management discussion took place in the absence of the Respondents. The Applicant's representative moved for the application to be amended to reflect the new sum sought and moved for an order for payment in the increased sum of £3,416.43 together with interest at 4% above the Clydesdale Bank plc base rate until payment. The Applicant's representative relied upon clause 1.5 of the tenancy agreement in respect of the claim for interest.

Findings in Fact

[3]

- i. The Applicant and Second Respondent entered into a Tenancy Agreement dated 18th and 22nd November 2015.
- ii. On 22nd November 2015, the First Respondent signed a guarantee in favour of the Applicant, indemnifying the Second Respondent in respect of a breach of the tenancy agreement by her.
- iii. The rent payable was £425 per month.
- iv. The Second Respondent incurred rent arrears amounting to £2,349.98.
- v. The Applicant incurred outlays totalling £1,066.45 in respect of recovery of rent arrears.
- vi. The Applicant is entitled to the Order sought for payment in the sum of £3,416.43.

Reason for Decision

- [4] In terms of clause 1.5 of the tenancy agreement, the Second Respondent was liable to pay rent of £425 per month together with all losses and expenses incurred by the Applicant. The Tribunal was satisfied that the Applicant had vouched the rent arrears (by reference to the rent statement) and the outlays incurred by her. The legal basis for the Applicant recovering those costs from the Second Respondent can be found in the tenancy agreement between the parties. In terms of the guarantee signed on 22nd November 2015, the First Respondent is jointly and severally liable along with the Second Respondent, to pay the arrears of rent and outlays incurred by the Applicant. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal was satisfied that the

Respondents are liable to pay rent arrears and outlays and therefore granted the order for 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Nicola Irvine

Legal Member/Chair

7th September 2020

Date