



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/CV/19/3446

Re: Property at 37 Livingstone Terrace, Irvine, KA12 9DQ (“the Property”)

Parties:

Miss Louise Mair, Waterpark, Kilmaurs, KA3 2LU, per Mr Robert Neil, Waterpark, aforesaid (“the Applicant”)

Miss Karen Martin, formerly residing at the property and now at 6, Cramalt Court, Irvine KA11 1JL (“the Respondent”)

Tribunal Member:

David Preston (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent to the applicant of the sum of ONE THOUSAND FOUR HUNDRED AND TEN POUNDS AND EIGHTY FOUR PENCE (£1410.84) should be made.

Background:

1. By application dated 22 October 2019 the applicant applied for an order for payment in respect of arrears of rent amounting to £220.68.
2. The papers before the tribunal comprised: Tenancy Agreement dated 19 June 2012; rent statement for the period to 29 December 2019 showing arrears to that date of £1410.84; Certificate of Service by Sheriff Officer dated 18 August 2020.
3. By Decision dated 8 November 2019 a Convener of HPC having delegated power for the purpose, referred the application to the tribunal under rule 9 of the Rules. A letter of intimation dated 29 January 2020, with Notice of the Case Management Discussion (CMD) to be held 5 March 2020 was sent to the respondent along with a copy of the application. Efforts were made to serve the Notice on the respondent by Sheriff Officer who reported by email dated 31 January 2020 that service had

been unsuccessful at the addresses provided by the applicant for the respondent. Thereafter, in the absence of an address for the respondent, service was effected by advertisement conform to Certificate of Service by Advertisement dated 27 July 2020.

4. On 27 July 2020 a hearing was convened by telephone. Mr Neil attended on behalf of the applicant and the respondent neither appeared nor was represented.
5. At the CMD the applicant sought to increase the arrears from £361.23 being the arrears at the date of the application, to £1410.84, being the arrears due at the date on which the respondent vacated the property on 29 December 2019. The Convener adjourned the CMD on cause shown to a continued CMD scheduled for 15 September 2020 to allow the application to be amended and for intimation of the amended sum to be effected on the respondent.
6. Following the CMD the applicant submitted an email on 27 July 2020 with an amended rent statement showing arrears of £1410.84 up to the date on which the property was vacated.
7. Notice of the adjourned CMD together with the amended sum sought was served on the respondent at her new address by Sheriff Officer conform to Certificate of Service dated 18 August 2020.

Case Management Discussion

8. On 15 September 2020 Mr Neil attended the tribunal by telephone on behalf of the applicant. The respondent neither appeared nor was represented.
9. The tribunal was satisfied that Notice of the CMD had been duly served on the respondent by Sheriff Officer as detailed above and that she had voluntarily waived her right to be present or be represented and the tribunal was content to proceed in her absence.

Reasons for Decision:

10. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
11. The tribunal was satisfied that the amended application and notice of the CMD had been validly served on the respondent and that the evidence demonstrated that the arrears of rent amounted to the sum sought and accordingly determined to issue 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.

David Preston

15 September 2020