



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/18/3179

Re: Property at 112 Millstream Court, Paisley, PA1 1RR (“the Property”)

Parties:

Mr Damien Fry, 46 James Street, Carnoustie, DD7 7JY (“the Applicant”)

Mr Yousif Ahmad, formerly of 112 Millstream Court, Paisley, PA1 1RR and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Josephine Bonnar (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 should be made in favour of the Applicant in the sum of Seven hundred and Fifteen Pounds (£715.00).

Background

1. By application received on 23 November 2018 the Applicant applied for an order for payment of the sum of £715 in respect of sums owed by the Respondent at the conclusion of his tenancy of the property. The Applicant lodged a number of documents in support of the application including a copy tenancy agreement and a form which related to the end of the tenancy.
2. A copy of the application and supporting documentation were served on the Respondent by Sheriff Officer on 20 February 2019. Both parties were notified that a Case Management Discussion (“CMD”) would take place on 14 March 2019 at Glasgow Tribunal Centre, 20 York Street, Glasgow at 10am.
3. On 5 March 2019 the Applicant requested a postponement of the CMD as he was unable to attend due to work commitments. He asked if the CMD could be re-scheduled for a date between 25 and 29 March 2019. On 6 March 2019

both parties were notified by letter that the postponement request had been granted. On 12 March 2019 the Applicant was notified by letter that the CMD would now take place on 27 March 2019. A further copy of the Application was served on the Respondent by Sheriff Officer together with a letter notifying the Respondent of the date and time of the CMD. On 25 March 2019 the Applicant requested a further postponement of the CMD due to work commitments. On 26 March 2019 the Sheriff Officers who had effected service of the application on the Respondent contacted the Tribunal to advise that the occupier of the dwellinghouse where the papers had been deposited had contacted them and stated that the Respondent does not reside at that address. The Sheriff Officers had carried out further enquiries and had been unable to establish that the Respondent resided there. The application had therefore not been served.

4. On 26 March 2019 the Applicant was notified that the CMD had been cancelled and that a further CMD would be scheduled. The Applicant was also advised that service of the application had not been successful and that unless objections were received by 2 April 2019, the Tribunal would proceed to serve the application by advertisement on the Tribunal website in terms of Regulation 6A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. No objection was received and the Tribunal proceeded to serve the application by advertisement on the Tribunal website from 12 April until 16 May 2019. Parties were notified that a CMD would take place on 17 May 2019 at Glasgow Tribunal Centre, 20 York Street, Glasgow at 2pm and that they were required to attend.
5. The application called before the Legal Member for a CMD on 17 May 2019. The Applicant was present. The Respondent did not attend and was not represented. No written representations were received from either party in advance of the CMD.

Case Management Discussion

6. The Applicant confirmed that the sum claimed in the application is still outstanding. He referred to the form signed by the Respondent at the termination of the tenancy, lodged with the application, which acknowledged that the sum of £670 in outstanding rent was due at the end of the tenancy. The form also states that the cost of any missing keys, noted as three, was to be deducted from the deposit paid at the rate of £15 per key. The Applicant advised that the whole of the deposit had been used to repair and clean the property at the end of the tenancy, as it had been left in a terrible condition by the Respondent, and that he is therefore looking for a payment order for both the outstanding rent and the cost of the keys.
7. The Applicant confirmed that the only address he has for the Respondent is his mother's address. It was noted that this is the same address at which the Sheriff Officers had attempted service of the application. The Respondent's mother had notified the Sheriff Officers and had separately advised the Applicant that the Respondent does not reside there. The Respondent's whereabouts are therefore unknown.

Findings in Fact

8. The Applicant is the owner of the property.
9. The Respondent is the former tenant of the property.
10. The Respondent owed the sum of £670 in outstanding rent when he vacated the property in March 2018.
11. The Respondent failed to return three keys for the property when he vacated same and agreed to pay £15 for each missing key.

Reasons for Decision

12. The Respondent failed to attend the CMD and failed to lodge any written representations disputing the sum claimed by the Applicant. The Legal Member is satisfied from the information provided by the Applicant at the CMD, and the documents lodged with the application, that the sum of £715 is due to the Applicant and that the Respondent has failed or delayed to make payment of same.
13. The Legal member is therefore satisfied that an order for payment should be made in favour of the Applicant in the sum of £715.

Decision

14. The Tribunal determines that an order for payment should be made against the Respondent in favour of the Applicant in the sum of £715.

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.


Josephine Bonnar
Legal Member/Chair

17 May 2019