

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/19/0106

Re: Property at Kingencleugh House, Mauchline, Ayrshire, KA5 5JL (“the Property”)

Parties:

Sir Claud Hagart-Alexander, Ballochmyle Estate, 295 Ferndale Way, Redwood City, California, 94062, United States (“the Applicant”)

Mr Alexander Gray, who present whereabouts are unknown and Mrs Laura Pagan or Gray residing at 28A Loudon Street, Mauchline, Ayrshire, KA5 5BT (“the Respondents”)

Tribunal Member:

Nicola Irvine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent in the sum of £5,000.

Background

The Applicant submitted an application seeking an order for payment in the sum of £5,000. That sum related to arrears of rent in respect of the Respondents' tenancy of the property at Kingencleugh House, Mauchline. A case management discussion was fixed for 2nd April 2019 but did not proceed because the application had not been served on the First Respondent. Service was subsequently effected on the First Respondent by advertisement and on the Second Respondent by sheriff officer. The Second Respondent sent an email to the Tribunal advising that she would be unable to attend today's case management discussion, but she lodged written

representations setting out her position. The Applicant lodged further written representations in response.

The Case Management Discussion

The Applicant was represented by Mr Cherry and Ms Walsh of CKD Galbraith. The case management discussion proceeded in the absence of the Respondents. The Applicant's representatives confirmed that the Applicant is Sir Claud Hagart-Alexander. They advised that the Respondents were often late in paying rent and ultimately the Applicant served notice to quit on the basis that rent arrears had accrued. The Respondents left at the end of the notice period and were given a few days to uplift their belongings. After the Respondents vacated the property, substantial sums were expended by the Applicant in cleaning the property, undertaking gardening works and removal of waste. The Applicant applied to the tenancy deposit scheme to have the deposit released and that having been done, those funds were applied to the cost of cleaning, gardening and waste removal. The Applicant does not accept that the Respondents were to be reimbursed in respect of gardening works. The Applicant's representatives referred to clause 5 of the tenancy agreement which obliged the Respondents to maintain the garden grounds. The Applicant's representative moved for an order for payment against both Respondents in the sum of £5,000.

The Tribunal considered the Second Respondent's written representations. Although Mrs Gray appears to have been told by her husband that there was no outstanding rent, nothing has been produced to vouch that. Despite what the Second Respondent states about garden maintenance, the terms of the tenancy agreement (clause 5) obliged the Respondents to maintain the garden. The other matters raised by the Second Respondent do not answer the claim against the Respondents in relation to rent arrears.

Findings in Fact

1. The Applicant and the Respondents entered into a Tenancy Agreement in respect of Kingencleugh House, Mauchline. The period of the tenancy was from 18th August 2014 to 19th February 2015. Thereafter, the tenancy continued by tacit relocation.
2. The rent payable was £1,250 per month.
3. As at the date of the case management discussion, rent arrears amounted to £5,000.
4. The Applicant is entitled to the Order sought for payment in the sum of £5,000.

Reason for Decision

The Applicant has produced a rent statement which shows that the rent arrears amounted to £5,000 at the time the Respondents vacated the property. The Tribunal proceeded on the basis of the documents lodged, written representations and the submissions made at the case management discussion. The Tribunal was satisfied that rent arrears are due by the Respondents 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

N Irvine

Legal Member/Chair

15th May 2019

Date