

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/19/0740

Re: Property at Lower Harbour House, Harbour Lane, South Queensferry, EH30 9PT (“the Property”)

Parties:

Mr Ranald Mackay, Harbourhead, South Queensferry, Edinburgh, EH30 9PT (“the Applicant”)

Mr Stuart Noble and Ms Carol Lee, Lower Harbour House, Harbour Lane, South Queensferry, EH30 9PT (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of FIVE THOUSAND AND SEVENTEEN POUNDS AND EIGHTY ONE PENCE (£5017.81) STERLING. **The order for payment will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

Background

1. By application dated 5 March 2019 the Applicant’s representative applied to the First- tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears of £5250 against the

Respondents relating to a tenancy at Lower Harbour House, Harbour Lane, South Queensferry, EH30 9PT (“the Property”).

2. On 14 March 2019, the Tribunal accepted the application under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
3. On 13 April 2019, the Tribunal enclosed a copy of the application to both parties and invited the Respondents to make written representations to the application by 1 May 2019. The Tribunal also advised both parties that a Case Management Discussion under Rule 17 of the Regulations would proceed on 14 May 2019. This paperwork was served on the Respondents by Douglas Llewellyn, Sheriff Officer, Dunbar on 16 April 2019. The certificate of execution of service was received by the Tribunal.
4. The Respondents did not make any written representations by 1 May 2019.

Case Management Discussion

5. The Tribunal proceeded with the Case Management Discussion on 14 May 2019. The Applicant was represented by Ms Couser from Fife Letting Service. The Applicant was also personally present. The Respondents did not appear and were not represented.
6. The Tribunal had before it a Short Assured Tenancy Agreement between the Applicant and the Respondent which commenced on 24 March 2006. (“the tenancy agreement”). The Tribunal also had before it a rent statement to March 2019 showing arrears of £10267.81.
7. Ms Couser confirmed to the Tribunal that in terms of Clause 5 of the Short Assured Tenancy Agreement, the Respondent agreed to pay monthly rent of £675. The rent statement showed an increased monthly rent of £750 with arrears to March 2019 of £10267.81. She explained the Respondents had moved from the Property on 21 March 2019, but had left possessions in the Property and had arranged with the Applicant to come back and take what else they wanted. She explained there had been two previous actions in the Tribunal in terms of which an order for repossession and an order for payment in the sum of £5250 had been granted. On that basis she was seeking a reduced sum for arrears to 21 March 2019 of £5017.81 being the difference in the total arrears figure of £10267.81 as shown in the rent statement and the amount of the previous order for payment of £5250.

Findings In Fact

8. The Applicant and the Respondents agreed by way of a Short Assured Tenancy Agreement commencing on 24 March 2006 in relation to the Property that the Respondents would pay the Applicant a calendar monthly rent of £675. The rent had increased to £750.
9. The Respondents were in arrears of rent of £10267.81 to 21 March 2019 when the tenancy agreement terminated.
10. The Applicant had an Order for Payment in the sum of £5250 against the Respondents from the Tribunal under a previous action.

Reasons For Decision

11. In terms of Rule 13 (1) (b) of the Regulations, the Tribunal being satisfied that there was no prejudice to the Respondents, was prepared to allow the Applicant to amend the sum sought to the lower arrears figure of £5017.81 as shown in the up to date rent statement produced. The Applicant provided evidence of non-payment of rent in the form of the rent statement and tenancy agreement. The Tribunal was satisfied on the basis of the tenancy agreement, and rent statement and the supporting oral submissions made on behalf of the Applicant, that the Respondents were in arrears of rent of the sum sought.

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.

Shirley Evans


Legal Member/Chair

14 May 2019

Date