

Statement of 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/EV/18/1765

Re: Property at 19/2 Sailmaker Road, Edinburgh, EH6 7JS (“the Property”)

Parties

Leith Links NHT 2011 LLP, 19 West Tollcross, Edinburgh, EH3 9QN (“the Applicant”)

Lauren McMillan, 19/2 Sailmaker Road, Edinburgh, EH6 7JS (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

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 THREE THOUSAND NINE HUNDRED AND SEVENTY TWO POUNDS AND FOURTEEN PENCE (£3972.14) 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 10 July 2018 the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears against the Respondent relating to a tenancy at 19/2 Sailmaker Road, Edinburgh, EH6 7JS (“the Property”).
2. On 4 September 2018 the Tribunal gave notification of acceptance of the application to the Applicant and the Respondent under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

3. On 9 October 2018 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 24 October 2018. The Tribunal advised both parties on 9 October 2018 that a Case Management Discussion under Rule 17 of the Regulations would proceed on 26 October 2018. This paperwork was served on the Respondent by, Paul McAndrew, Sheriff Officer, Edinburgh on 10 October 2018 and certificate of execution of service was received by the Tribunal administration.
4. The Respondent did not make any written representations by 24 October 2018.

Case Management Discussion

5. The Tribunal proceeded with the Case Management Discussion on 26 October 2018. The Applicant was represented by Mr Mathieson, from TC Young, solicitors. The Respondent did not appear and was not represented.
6. Mr Mathieson explained to the Tribunal that the Applicant and the Respondent entered into a Short Assured Tenancy Agreement dated 22 August 2016 in relation to the Property. In terms of Clause 5.1 of the Short Assured Tenancy Agreement, the Respondent agreed to pay monthly rent of £625.26 to the Applicant. The Tribunal also had before it Notices of Rent Review the most recent one of which was dated February 2018 increasing the rent to £671.59 per month. The Applicant claims that the Respondent has fallen into arrears of rent and that the arrears are increasing. The Applicant sought payment for arrears of rent in the sum of £3972.14. The Applicant had included a rent statement to 3 July 2018 showing arrears in that amount.
7. Mr Mathieson explained during the Case Management Discussion that the Applicant's agents had contacted the Respondent after she stopped paying rent. They had sent an email on 2 October 2018, but had received no response. The last payment was made on 22 January 2018 as per the rent statement.. Arrears were increasing. The current arrears stood at £5986.91 He moved for an order for payment of arrears in the sum of £3972.14.

Findings In Fact

1. The Applicant and the Respondent agreed by way of a Short Assured Tenancy Agreement dated 22 August 2016 in relation to the Property at 19/2 Sailmaker Road, Edinburgh, EH6 7JS that the Respondent would pay the Applicant a calendar monthly rent of £625.26.

2. The rent had increased to £642.96 as of 1 April 2017 and to £671.59 as of 1 April 2018
3. The Respondent has fallen into arrears of rent.
4. The Respondent last paid rent to the Applicant on 22 January 2018 when she made a payment to account in the sum of £642.19.
5. The Applicant has attempted to engage with the Respondent to get her to pay rent. The Respondent has refused to do so.
6. Arrears of rent were £3972.14 as of 3 July 2018.
7. Arrears have increased to £5986.91 as of 26 October 2018.

Reasons For Decision

The Applicant's representative provided evidence of non-payment of rent in the form of the rent statement. The Tribunal was satisfied on the basis of the Short Assured Tenancy Agreement that the Respondent was obliged to pay rent. On the basis of the rent statement and the supporting oral submissions made on behalf of the Applicant, the Tribunal was satisfied that the Respondent is in arrears of rent in excess of the sum sought in the application. Accordingly, the Applicant is entitled to an Order for payment of the arrears sought under the Application.

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.

S Evans


Shirley Evans
Legal Member/Chair

26 October 2018

26 October 2018
Date