

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/18/2296

Re: Property at Top Flat, 8 Kelburn Court, Largs, KA30 8HN (“the Property”)

Parties:

ACRE LETTINGS LIMITED, 6 STANLANE PLACE, LARGS, KA30 8DA (“the Applicant”)

Miss Nicole Lincoln, 55 Keppernburn Avenue, Fairlie, Ayrshire, KA29 0BA (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of rent arrears amounting to £3,004.25 with interest thereon at 8% in terms of section 16 of the Housing (Scotland) Act 2014 in relation to an assured tenancy for the Property.

The application contained a copy of the Tenancy Agreement; the rent history statement, copy NTQ and section 33 notice, AT6, Charge for Payment and Earning Arrestment for arrears up to 16 June 2017, and rent history statement explanation.

The Applicant was represented by Andrea Bell from Acre Lettings Limited. There was no appearance from the Respondent.

The Notice of the Hearing had been served on the respondent by sheriff officers on 10 October 2018. As I was satisfied that the respondent had been given formal notice of the today's case management discussion I was prepared to proceed with it in her absence.

The Hearing

The Applicant advised that the rent arrears were still outstanding and as at today's date.

That there had been no further payments to rent since the application was lodged with the tribunal. The applicant had written in March 2018 asking the respondent to repay the rent arrears. There had also been no recent communication from the Respondent.

The applicant advised that the rent arrears had arisen ⁱⁿ relation to unpaid rent from 18 June 2017 until 1 February 2018. The applicant had obtained a decree for payment of earlier rent arrears from the sheriff court. Total rent due from 18 June 2017 until 1 February 2018, when the respondent left the property was £3559.25. The applicant advised that she had deducted the payment made by the respondent of £555, which was shown on the rental account, from the rent due between this period. The outstanding sum due was therefore £3004.25.

The applicant advised that the respondent had left the property on 1 February 2018.

Findings in Fact

The Tribunal found the following facts to be established:

A tenancy agreement existed between the applicant and the respondent for the property. It had been entered into on 18 November 2015.

Clause 1 of the tenancy agreement provided that rent of £475 was due per calendar month in advance by the respondent to the applicant.

The rental statement showed that as at the 1 February 2018 the arrears for the property were £3004.25. The current arrears were £3004.25.

Reasons for Decision

Section 16 of the Housing (Scotland) Act 2014 provides that the Tribunal has jurisdiction in relation to actions arising following from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988.

As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this case.

There was no response or appearance from the respondent but she had been made aware of today's hearing.

The tenancy agreement created obligations between the landlord and tenant, one of those obligations was to pay rent, and the respondent has failed to do so. There was submitted a rental statement showing the arrears due and the period during which they were due.

On the basis of the evidence submitted, I consider that I am entitled to make an order for the sum sued for.

I do not consider that I am entitled to award judicial interest as sought on the sum due and accordingly I make no order for judicial interest payable by the respondent.

Decision

I grant an order in favour of the applicant for THREE THOUSAND AND FOUR POUNDS AND TWENTY FIVE PENCE (£3004.25) STERLING against the respondent.

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.

M Barbour

Legal Member/Chair

26-10-18

Date