



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/22/3794

Re: Property at 28 Craigroyston Place, Edinburgh, EH4 4DJ (“the Property”)

Parties:

Mr Ryan McKiernan, 4 Jardine Place, Edinburgh, EH15 3FG (“the Applicant”)

Mr Kurtulus Altas, 28 Craigroyston Place, Edinburgh, EH4 4DJ (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

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

At the Case Management Discussion (“CMD”), which took place by telephone conference on 15 November 2022, the Applicant was present and was represented by Mr Gregor Fortune of Gregor Fortune Property Limited, Edinburgh. The Respondent was neither present nor represented and had lodged no written representations.

The CMD was in respect of this matter and the related case bearing reference FTS/HPC/EV/22/2042

The tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) had been satisfied relative to the Respondent having received notice of the CMD and determined to proceed in the absence of the Respondent in terms of Rule 29.

Background

The Tribunal noted the following background:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") signed on 25 February 2022 and that commenced on 1 March 2022.
- ii. The rent payable in terms of the PRT is £900 per month payable monthly in advance on the first day of each month.
- iii. A deposit of £900 was paid in terms of the PRT.
- iv. The rent arrears due as at the date of the application were £2,315.34.

The CMD

At the CMD Mr Fortune for the Applicant made the following representations in respect of this application:-

- i. The deposit paid by the Respondent in terms of the PRT remains with Safe Deposits Scotland.
- ii. The Respondent is in occupation of the Property and lives in the Property alone.
- iii. The Respondent works at a premises in Davidson's Mains, Edinburgh.
- iv. Mr Fortune had previously asked a neighbour at the Property to let him know if the Respondent moved out of the Property but he had not heard anything to that effect.
- v. Mr Fortune would previously visit the Respondent at his place of work to speak with him.
- vi. Mr Fortune's last contact with the Respondent was on 24 October when he tried to call him and sent a text too. He had no response.
- vii. The rent arrears balance as at today's date is £3,215.34 and the Applicant sought to amend the application to increase the amount claimed.
- viii. The Applicant seeks an order for payment.

Findings in Fact

- i. The Applicant and his wife, Nicola McKiernan, are the heritable proprietors of the Property.
- ii. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") signed on 25 February 2022 and that commenced on 1 March 2022.
- iii. The rent payable in terms of the PRT is £900 per month payable monthly in advance on the first day of each month.
- iv. A deposit of £900 was paid in terms of the PRT and is held with Safe Deposits Scotland.
- v. The rent arrears due as at the date of the application were £2,315.34.
- v. The rent arrears balance as at today's date is £3,215.34.
- vi. The Respondent is still living in the Property.

Reasons for Decision

The Respondent did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally on his behalf at the CMD was not challenged and was accepted by the Tribunal.

The rent arrears are payable in full.

The Applicant's representative's email to the Tribunal dated 8 November 2022 seeking to amend the sum claimed in the application to £3,215.34 was not made timeously in terms of Rule 14A of the Rules and therefore falls to be refused.

Decision

The Tribunal:-

1. Refuses the Applicant's application to amend the application by increasing the sum claimed and
2. Grants an order finding the Respondent liable to pay to the Applicant £2,315.34.

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.

G. Buchanan

Legal Member/Chair

15 November 2022
Date