



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 (“the 2014 Act”) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/CV/20/1447

Re: Property at 30 Craig View, Springside, North Ayrshire, KA11 3AA (“the Property”)

Parties:

Mr Peter Fisher, 8575 Christina Hilltop, Apartment 18 Agais Photinis Street, Block A Level 1 No 1, Peyia, Paphos, Cyprus (“the Applicant”)

Secure Letting (Ayrshire), Caledonian House, 100 High Street, Irvine, KA12 0AX (“the Applicant’s Representative”)

Mr Ashley Nixon, 30 Craig View, Springside, North Ayrshire, KA11 3AA (“the Respondent”)

Tribunal Member:

Ms. Susanne L. M. Tanner Q.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay to the Applicant the sum of TWO THOUSAND NINE HUNDRED AND EIGHTY ONE POUNDS AND FIFTY THREE PENCE (£2981.53) STERLING; and made an Order for Payment in respect of the said sum

STATEMENT OF REASONS

1. Procedural background

- 1.1. On 1 July 2020, the Applicant's Representative, made an application to the tribunal in terms of Section 16 of the Housing (Scotland) Act 2014 ("the 2014 Act") and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 ("the 2017 Rules").
- 1.2. The Applicant is seeking rent arrears from the Respondent for the tenancy of the Property in the sum of £2981.53.
- 1.3. The Applicants' Representative lodged:
 - 1.3.1. A letter of authority to act;
 - 1.3.2. A copy AT5 form dated 15 September 2016; and
 - 1.3.3. A rent statement for the period from 10 October 2016 to 1 July 2020.
- 1.4. On 15 July 2020, the Application was considered by a legal member of the tribunal acting with the delegated powers of the President. A request for further information was sent to the Applicant's Representative.
- 1.5. On 29 July 2020, the Applicant's representative provided additional information, including a copy of the tenancy agreement for the Property; and a signed confirmation from the Respondent that she collected a Notice to Quit and Section 33 Notice on 27 February 2020.
- 1.6. The tribunal's administration obtained the Search Sheet for the Property and it shows that a disposition in favour of the Applicant and another (Eleanor Johns) was registered in the Register of Sasines on 27 April 1994.
- 1.7. On 24 August 2020, the Application was accepted for determination and a Case Management Discussion ("CMD") teleconference was thereafter fixed for 2 October 2020. Parties were notified that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application which may involve making or refusing a payment order. Parties were notified that if they do not attend the CMD, this will not stop a decision or order being made by the tribunal if the tribunal considers that there is sufficient information before it and the procedure has been fair. The Respondent was invited to submit written representations to the tribunal by 25 September 2020.

The Respondent was served with the Application documentation and notification of the CMD by Sheriff Officers on 9 September 2020.

1.8. The Respondent did not submit written representations or make any contact with the tribunal prior to the CMD.

Case Management Discussion: 2 October 2020, 1130h, by teleconference

1.9. Mrs Allen from the Applicant's Representative attended the CMD.

1.10. The Respondent did not attend the CMD or make any contact with the tribunal's administration. The tribunal had a copy of the certificate of service by Sheriff Officers. Mrs Allen advised that the Respondent continued to reside in the Property. The tribunal was satisfied that the requirements of Rule 24(1) regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the party present and all the material before it.

1.11. Mrs Allen stated that there is presently no eviction case before the tribunal in relation to this property. Notices have been served on the respondent and the Applicant's Representative is waiting for the notice period to expire before making the application.

1.12. Mrs Allen stated that the arrears have increased since the Application was made. The rent statement with the Application covers the period up to 1 July 2020. The last incoming payment was 14 September 2020. Although payments have been made, the Respondent has rent arrears of £3308.49 up to and including 1 October 2020. The rent in terms of the tenancy is £392.42 payable every four weeks in advance. The Respondent was on Housing Benefit and then began working. Since lockdown began she has been in receipt of Universal Credit payments. Mrs Allen stated that the Applicant's Representative has recently applied to the Council to receive some rent directly after submitting a UC47 form to the Council. Two Universal Credit payments have now been made in August 2020 and September 2020. On 23 June and 21 July 2020, the Respondent made contributions herself of £100 and £130, respectively, which are reflected on the rent statement which has been lodged. On 21 August 2020, the Applicant's Representative received a payment of £425 from Universal Credit and another £425 on 22 September 2020. The Respondent has not paid anything towards her arrears.

1.13. Mrs Allen confirmed that she wished to seek an order for payment today for the rent arrears up to 1 July 2020, as specified in the Application and

supported by the documents lodged in support of the Application. She intends to make a further Application on behalf of the Applicant, seeking arrears from 2 July onwards at the same time as making the eviction application referred to above.

2. The tribunal makes the following findings-in-fact:

2.1. The Applicant is the joint pro indiviso owner of the Property.

2.2. There is a short assured tenancy between the Applicant and the Respondent for the initial period 10 October 2016 to 11 April 2017.

2.3. Thereafter the tenancy has continued on a monthly basis by tacit relocation.

2.4. The rent payable in terms of the tenancy agreement is £393.32 per four weeks, payable in advance.

2.5. As at 1 July 2020, the Respondent's rent arrears were £2981.53.

3. **Decision**

3.1. The tribunal determined on the basis of the Application (including supporting documents) that the Applicant had proved that the Respondent owes the Applicant the sum of £2981.53 in respect of the period to 1 July 2020 and made an order for payment by the Respondent to the Applicant for the said sum.

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 Tanner

2 October 2020

Ms. Susanne L. M. Tanner Q.C.
Legal Member/Chair

