



**Decision 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/22/2216

Re: Property at 1 The Granary, Kirk Place, Rothes, Aberlour, AB38 7AP (“the Property”)

Parties:

Spey Properties Ltd, Morayshire Copperworks, Station Road, Rothes, Aberlour, AB38 7AD (“the Applicant”)

Ms Anne- Marie Chalmers, 82 Provost Christie Drive, Rothes, Aberlour, AB38 7BU (“the Respondent”)

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision (in absence of the Respondent)

At the Case Management Discussion (“CMD”), which took place by telephone conference on 4 May 2023. The Applicant was represented by Mr Arthur Bell, Jameson & Mackay, Solicitors, Perth. The Applicant was not in attendance. The Respondent was neither present nor represented.

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.

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

Background

A CMD had previously take place on 23 February 2023. The Respondent was neither present nor represented at that CMD. The CMD on 23 February 2023 was adjourned to allow the Applicant to intimate to the Respondent a proposed amendment to the application to increase the sum claimed to £8,535 all in terms of Rule 14A of the Rules.

The CMD

At the CMD Mr Bell explained that there had been no further payments from the Respondent. The rent arrears due to the Applicant remained at £8,535 being the arrears due to the date of the Respondent's departure from the Property in September 2022.

Intimation of the proposed amendment to the application to increase the sum claimed to £8,535 was issued to the Respondent by email on 23 February 2023 at 11:59.

The Applicant therefore seeks a payment order in a sum of £8,535.

Findings in Fact

The tribunal makes the following findings in fact:-

- i. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement ("the PRT") that commenced on 1 February 2020.
- ii. The rent payable in terms of the PRT was £695 per calendar month payable in advance on the first day of each month.
- iii. The rent arrears due as at the date of the application, namely 6 July 2022, were stated to be £6,450.
- iv. The Respondent vacated the Property on 30 September 2022.
- v. The rent arrears to that date are £8,535.
- vi. On her departure from the Property the Respondent entered into a payment plan for the outstanding rent due and agreed to pay £347.50 per month, being one half the monthly rent payable during the term of the PRT.
- vii. The Respondent has made no payments.

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 on its behalf orally at both CMDs was not challenged and was accepted by the Tribunal.

Rent arrears of £8,535 are due.

Decision

The Tribunal :-

- i. Allowed the application to be amended to increase the sum claimed to £8,535; and
- ii. Thereafter granted a payment order in favour of the Applicant requiring the Respondent to pay to the Applicant £8,535.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal.

A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Gillian Buchanan



Legal Member/Chair

4 May 2023
Date