



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/22/3236

Re: Property at 10 Whyte Street, Harthill, Shotts, ML7 5SP (“the Property”)

Parties:

Mr Hiram Gemmell, C/O 21 Moss Street, Paisley, PA1 1BX (“the Applicant”)

Ms Paula Mearns, 58 Inverkip Drive, Shotts, ML7 4DG (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondent for payment to the Applicant of the sum of Seven Thousand Three Hundred and Twenty Pounds £7,320

Introduction

This is an application under Rule 70 in which the applicant seeks a Payment Order to recover arrears of rent.

Service of the application and intimation of the Case Management Discussion (CMD) was made upon the respondent by Sheriff Officers for delivery on 12 January 2023.

The CMD took place by teleconference on 24 February 2023 at 2.00 pm.

The applicant was represented by Mrs Jennifer Cochran of Cochran Dickie Solicitors. The respondent failed to participate in the hearing. There was no known barrier to her doing so.

Findings and Reasons

The property is 10 Whyte Street, Harthill, Shotts ML7 5SP. The applicant is Mr Hiram Gemmell. The respondent is Ms Paula Mearns who is the former tenant.

The title to the let property is in the name of Mr William Gemmell. The applicant is one of his sons who inherited his estate after his death. The applicant's brother, David Gemmell, is a joint beneficiary and is a co-owner of the property. The applicant has the consent of his brother, Mr David Gemmell, to bring these proceedings.

An assured tenancy agreement was in place in respect of the let property for a number of years. Following the service of a notice to quit the respondent left the property as at 29 November 2022.

Throughout the duration of the tenancy the respondent fell into significant rent arrears. The monthly recent was £350 per month. As at the date of application the arrears totalled £5,920. Some additional rent arrears accrued prior to the departure of the respondent from the property. A timeous Rule 14A amendment application has been made to increase the sum sought to £7,320.

A detailed rent statement has been produced to establish the rent arrears claimed. The tribunal found this a credible and reliable document and attached weight to it.

The applicant is entitled to recover arrears of rent lawfully due under and in terms of the tenancy agreement. The respondent has refused or unreasonably delays to make payment of all relevant rent payments. She has not defended the application and made no application for a time to pay direction.

The tribunal granted the application and made a payment order against the respondent in the sum of £7,320.

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.

Richard Mill

24 February 2023

Legal Member/Chair

Date