

Housing and Property Chamber
First-tier Tribunal for Scotland



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/22/3377

Re: Property at 25 Thomson Road, Peterhead, AB42 3FJ (“the Property”)

Parties:

Mr Michael Peddie, Mrs Linda Peddie, 2 Inverugie Road, Peterhead, AB42 1QW (“the Applicants”)

Mr Ewan Finnie, Mrs Ann-Elyse Finnie, 27 Pusey Place, Peterhead, AB42 2ZA; 27 Pusey Place, Peterhead, AB42 2ZA (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined an order be made against the Respondents for payment to the Applicants of the sum of Four Thousand Two Hundred and Fifty Pounds (£4,250)

Introduction

1. This application is under rule 70 and section 16 of the Housing (Scotland) Act 2014. The application seeks recovery of rent arrears.
2. Intimation of the application and Case Management Discussion (CMD) is certified to have been made on the respondents by sheriff officers on 22 December 2022.
3. The CMD took place on 17 February 2023 at 11.30 am. The applicants were represented by Mr Andrew Mackey of Messrs Masson Glennie, Solicitors. Mr Peddie also joined the hearing. The respondents failed to participate in the hearing.

4. On 26 January 2023 the second respondent asked for more time to lodge representations. This was allowed. She referred to arranging an appointment with a solicitor. On 16 February 2023 the second respondent again contacted the Tribunal seeking an adjournment. She again referenced not having met with her solicitor. The Tribunal carefully considered the application to adjourn or postpone in line with the terms of Rule 28. The application was opposed by the applicants' representative. Rule 2 which sets out the overriding objectives requires delay to be avoided. Rule 28 requires cause to be shown. The application and intimation of the CMD was effected upon the respondents on 22 December 2022. Almost two months have elapsed. The respondents have had ample time to arrange for representation. They have not set out any proposed defence to the proceedings. The Tribunal concluded that it was not in the interests of justice to delay. The respondents were aware of the hearing. Lawful intimation had been made upon them. Rule 29 allows the Tribunal to proceed in their absence in the circumstances. The application to adjourn was refused.

Findings and Reasons

5. The Tribunal attached weight to the entirety of the documentary evidence which is not the subject of challenge. This was found to be both credible and reliable.
6. The property is 25 Thomson Road, Peterhead AB42 3FJ.
7. The applicants are Mr Michael Peddie and Mrs Linda Peddie who are the heritable proprietors and registered landlords of the property. The respondents are Mr Ewan Finnie and Mrs Ann-Elyse Finnie who are the former tenants.
8. The parties entered into an assured tenancy which commenced on 11 February 2013. The tenancy ended on 1 August 2022 when the respondents surrendered possession and returned the keys.
9. During the subsistence of the tenancy, the respondents fell into rent arrears. The monthly rent at the time of arrears accruing was £850 per month. 5 months rent was unpaid for the months of March, April, May, June and July 2023.
10. The application is accompanied by a detailed rent statement which evidences that the sum of £4,250 is outstanding.
11. The applicants seek to recover the arrears of rent lawfully due under and in terms of the lease. They are entitled to do so.
12. The respondents refuse or unreasonably delay to pay the rent due and, in the circumstances, a payment order is necessary. No application for a time to pay direction has been made.

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.

17 February 2023

Legal Member/Chair

Date