



**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/18/0110

Re: Property at 8 Southfield Loan, Edinburgh, EH15 1QR (“the Property”)

Parties:

Mr Ross McVie, 51/5 Marionvile Road, Edinburgh, EH7 6AG (“the Applicant”)

Mr Kevin Steele, 8 Southfield Loan, Edinburgh, EH15 1QR (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application for a payment order dated 10th January 2018 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.

The Applicant sought payment of arrears in rental payments in relation to the Property from the Respondent, and provided with his application copies of the short assured tenancy agreement and a copy rent statement. The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 15th February 2018, and I was provided with the executions of service. He is accordingly deemed to be aware of the Case Management Discussion.

Case Management Discussion

A Case Management Discussion was held on 14th March 2018 at George House, 126 George Street, Edinburgh. The Applicant did not appear in person, but was represented by Mr Matheson, solicitor. The Respondent did not appear in person, nor was he represented.

I was invited by Mr Matheson with reference to the application and papers to grant the order sought.

The Tribunal noted that the copy rent statement provided with the application appeared to be the final page of a longer document which disclosed the final balance said to be outstanding as at the date of the application. It commenced with an outstanding balance of rent arrears which appeared to have been carried over from earlier periods not shown on the copy rent statement provided.

Mr Matheson was, however, able to provide the Tribunal with a copy of the entire rent statement covering the period from the commencement of the tenancy (12th February 2015) to the date of this application, which showed all the rental payments due, together with the payments made by the Respondent.

Statement of Reasons

Section 16 of the Housing (Scotland) Act 2014 provides as follows:

"16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments."

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement and the entire copy rent statement provided at the Case Management Discussion, and

together with Mr Matheson's submissions thereon was satisfied that this disclosed an outstanding balance of rent arrears at the date of this application in the sum sought of £1,150.00. Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, I have will make an order for payment by the Respondent to the Applicant of the sum of £1,150.00, as sought in this application.

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.

Neil Kinnear

Legal Member/Chair

14/03/18

Date

