



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/22/2664

Re: Property at 19 Stair Drive, Drongan, KA6 7DP (“the Property”)

Parties:

Miss Donna Kirkpatrick, 20 Goldhurst Terrace, London, NW6 3HU (“the Applicant”)

Ms Jade Shearer, 5 Lochmark Avenue, Drongan, KA6 7BE (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of FOUR THOUSAND SIX HUNDRED AND EIGHTY-TWO POUNDS AND THIRTY-THREE PENCE (£4682.33) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an action for recovery of rent arrears raised in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application, dated 3 August 2022, was accompanied by a copy of a Short Assured Tenancy Agreement between the parties commencing 24 June 2017 and a rent ledger to 4 July 2022.

3. On 20 October 2022 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 17 January 2023 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 3 February 2023. The Tribunal also advised that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 28 February 2023. This paperwork was served on the Respondent personally by Stuart Sinclair, Sheriff Officer, Glasgow on 17 January 2023 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with a Case Management Discussion on 28 February 2023 by way of teleconference. The Applicant was represented by Mr Fraser from Wallace Hodge, Solicitors. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
6. The Tribunal had before it the Short Assured Tenancy Agreement between the parties commencing 24 June 2017 and the rent ledger to 4 July 2022. The Tribunal considered these documents.
7. Mr Fraser moved the Tribunal to grant an Order for payment for £4682.33. With reference to the rent ledger lodged to 4 July 2022 which showed arrears of £4290.33, he submitted the last payments to account were of £196 on 27 January 2022 and 11 February 2022. No payments had been received since the Applicant had given the Respondent notice she wanted to repossess the Property. By the time the application had been lodged another four weeks arrears had accrued bring arrears to the date of the application to £4682.33. The Tribunal noted the terms of the rent ledger and that in terms of Clause 2 of the tenancy agreement the weekly rent was £98. He explained the Respondent had abandoned the tenancy in or about Christmas 2022 and arrears had continued to accrue.

Findings in Fact

8. The Applicant and the Respondent agreed by way of Clause 2 of a Short Assured Tenancy Agreement commencing on 24 June 2017 in relation to the Property that the Respondent would pay the Applicant a weekly rent of £98.
9. The Respondent fell into arrears of rent. The last payments to the rent account were of £196 on 27 January 2022 and 11 February 2022. As at 3 August 2022 arrears were £4682.33. Arrears continued to accrue until the Respondent abandoned the Property on or about Christmas 2022.

Reasons for Decision

10. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Fraser.
11. The Tribunal noted the terms of the tenancy agreement and the rent ledger lodged which set out how the arrears had arisen and showed the total arrears to 4 July 2022 as being £4290.33. Another four weeks rent had accrued by the date of the application increasing the arrears to £4682.33. The Applicant's solicitor had produced evidence of persistent non-payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Fraser's submissions that the order for payment in favour of the Applicant be granted for the sum claimed of £4682.33.

Decision

12. The Tribunal granted an order for payment of £4682.33

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. Evans

1 March 2023

Legal Member

Date