



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/3639

Re: Property at 93G Eday Road, Aberdeen, AB15 6LH (“the Property”)

Parties:

Mr Rob Morgan, 1 Tillygonnie Crescent, Tarves, AB41 7QF (“the Applicant”)

Mr Sean Emerson, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Ruth O'Hare (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 the sum of Three thousand one hundred and sixty five pounds and sixty eight pence (£3165.68) Sterling

- 1 By application dated 12 November 2019 the Applicant sought an order for payment of rent arrears against the Respondent. In support of the application the Applicant provided a Rent Statement, Invoice for cost of replacing door, Tenancy Agreement and Notice to Leave.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 27 March 2020.
- 3 The Applicant submitted a Request for Advertisement on the basis that the Respondent’s whereabouts were unknown which was accompanied by a trace report from Sheriff Officers dated 21 January 2020. Having been satisfied that the Applicant had made reasonable efforts to locate an address for the

Respondent the Tribunal agreed to grant permission for service by advertisement on the Tribunal website in terms of Rule 6A of the First-tier Tribunal (Housing and Property Chamber) Procedural Rules.

- 4 Following the imposition of restrictions arising from the Covid-19 pandemic the Case Management Discussion was postponed to 24 July 2020. A direction was issued to the parties by the Chamber President confirming that the Case Management Discussion would take place by teleconference. Notification of the date and time, together with instructions on how to join the teleconference was intimated to the Applicant by email. Due to there being no forwarding address for the Respondent it was not possible for notification to be sent to him therefore notification was given by way of service by advertisement on the Tribunal website.

The Case Management Discussion

- 5 The Case Management Discussion took place on 24 July 2020 by teleconference. The Applicant's Representative, Marlene Ogston, was in attendance. The Respondent did not attend.
- 6 Having noted that the efforts made by the Applicant to trace the Respondent, the apparent deliberate attempt by him to evade being traced by failing to provide a forwarding address and the evidence of service by advertisement of the original application paperwork and of the adjourned Case Management Discussion on the Tribunal website, the Legal Member determined she could proceed with the Case Management Discussion in the Respondent's absence.
- 7 The Applicant's Representative confirmed that the Applicant sought the order for £3165.68. This consisted of rent arrears in the sum of £2835.50 and the remaining costs of replacing the front door of the property in the sum of £330.10. She advised that the Applicant had recovered the deposit in full from the tenancy deposit scheme which had been put towards cleaning costs and the cost of replacing the door. The Respondent had not engaged in the dispute resolution process. The Applicant's Representative explained that the door had been damaged during a raid by Police. The Respondent had conceded that this was his fault and had offered to make payment for the cost of replacing the door. However he had failed to do so. Neither the Applicant nor the Applicant's Representative had received any contact from the Respondent since the lodging of the application with the Tribunal.

Findings in Fact and Law

- 8 The parties entered into a Private Residential Tenancy Agreement in respect of the property which commenced on 18 January 2019.

- 9 In terms of the said Tenancy Agreement the Respondents are due to pay rent of £595 per month.
- 10 The tenancy terminated on 18 September 2019. As at the date of termination arrears in the sum of £2835.58 were outstanding.
- 11 The Respondent is liable for payment of the said sum of £2835.58 in terms of the Tenancy Agreement between the parties.
- 12 The front door to the property was damaged during a raid at the property by the Police. The Police were attempting to locate the Respondent. The door was irreparably damaged and requires replacement.
- 13 The cost of replacing the door amounted to £768.50. Following deduction of the deposit in part, the sum outstanding is £330.10.
- 14 The front door was damaged due to the wilful acts of the Respondent. The Respondent is therefore liable for the cost of replacing the door under the terms of the Tenancy Agreement between the parties.
- 15 The Respondent accepted responsibility for the cost of the replacement door.
- 16 The Respondent is therefore liable to pay the total sum of £3165.68.
- 17 Despite repeated requests the Respondent has refused or delayed to make payment of the sums due.

Reasons for Decision

- 18 The Tribunal was satisfied that the Respondent had received proper notification of the application and the Case Management Discussion. The Tribunal therefore considered it was able to continue with the Case Management Discussion in the absence of the Respondent. The Tribunal was further satisfied that it was able to make a determination of the application at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties.
- 19 Having considered the terms of the tenancy agreement, rent statement and invoice produced by the Applicant, and based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £3165.68. The Respondent had not sought to dispute the terms of the application and there was no evidence before the Tribunal to contradict the position put forward on behalf of the Applicant. The Tribunal therefore made an order for payment against the Respondent.

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.

**Ruth O'Hare
Legal Member/Chair**

Date: 24 July 2020