



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/19/3920

Re: Property at Flat 2/2, 90 Albert Street East, Dundee, DD4 6QH (“the Property”)

Parties:

BRL 1995 Discretionary Trust, C/o Lickley Proctor Lettings, 58 Bell Street, Dundee, DD1 1HF (“the Applicant”)

Mr Iain Elliot, present whereabouts unknown (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be determined without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £1,142.88. The Applicant’s request for interest on that sum was refused.

Background

By application, received by the Tribunal on 11 December 2019, the Applicant sought an Order for Payment against the Respondent in respect of unpaid rent for the Property that had become lawfully due by the Respondent to the Applicant and for certain expenses incurred by the Applicant. The sum sought was £1,205.30. The Applicant also sought interest on the principal sum at a rate deemed appropriate by the Tribunal.

The application was accompanied by copies of a Short Assured Tenancy Agreement between the Parties, commencing on 1 December 2017 at a rent of £370 per month with a deposit of £470, a Rent statement showing arrears as at 28 July 2019 of £1,830, an Invoice from Central Cleaning Services Dundee for £110.88, dated 30 August 2019, an Invoice from Scott & Co sheriff officers, Dundee for service of a

Notice to Quit and evidence of payment of £42 in respect of the removal of furniture from the Property.

On 20 February 2020, the Tribunal advised the Parties of the date, time and venue for a Case Management Discussion. Service on the Respondent was by way of advertisement, as the Applicant had provided the Tribunal with a report from Killlean & Co, sheriff officers, Dundee dated 20 January 2020, to the effect that they had ascertained that the Respondent had absconded from the Property on 26 July 2019 and that his present whereabouts were unknown. The Respondent did not make any written representations to the Tribunal.

The Case Management Discussion scheduled for 25 March 2020 was postponed due to the COVID-19 lockdown restrictions.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 29 July 2020. The Applicant was represented in the conference call by Ms Carolyn Leckie of Bruce Short solicitors, Dundee. The Respondent did not participate and was not represented. The Applicant's representative told the Tribunal that no payments had been received since the date of the application and asked the Tribunal to grant the Order sought without a Hearing. The Tribunal also noted a Certificate of Service by Advertisement showing that the intimation to the Respondent of the Case Management Discussion had been advertised on the Tribunal's website between 11 June and 29 July 2020.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it could determine the application without a Hearing.

The Tribunal was satisfied that the sums sought in respect of arrears of rent, cleaning charges and the removal of furniture were lawfully due by the Respondent to the Applicant. The Tribunal was not, however, prepared to include in the Order it proposed to make the sheriff officers' charge (£62.42) for serving a Notice to Quit, as this was a cost that would have been incurred by the Applicant in any application to recover possession of the Property. This reduced the amount to be included in the Order to £1,142.88. The Tribunal was not prepared to order payment of interest on the sum sought.

Decision

The Tribunal determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £1,142.88. The Applicant's request for interest on that sum was refused.

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.

George Clark

29/07/2020

Legal Member/Chair

Date