



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/20/0217

Re: Property at 26M Riverside Drive, Aberdeen, AB11 7DF (“the Property”)

Parties:

Drum Riverview Limited, 12 Rubislaw Terrace Lane, Aberdeen, AB10 1XF (“the Applicant”)

Mr Shaun Sukhraj Heer, formerly residing at 26M Riverside Drive, Aberdeen, AB11 7DF but present whereabouts 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 Two thousand six hundred pounds (£2600) Sterling

- 1 By application dated 23 January 2020 the Applicant sought an order for payment of rent arrears against the Respondent. In support of the application the Applicant provided a Rent Statement and copy Tenancy Agreement between the parties.
- 2 By Notice of Acceptance of Application dated 5 February 2020 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 Service by Advertisement on the Tribunal website on the basis that the Respondent’s whereabouts were unknown. The Applicant explained that attempts had been made to trace the

Respondent through internet searches and contact with his next of kin, to no avail. 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. Service was duly effected.

- 4 Following the imposition of restrictions arising from the Covid-19 pandemic the Case Management Discussion was postponed to 30 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 and the Applicant's representative by email. Due to there being no forwarding address for the Respondent and no email address, notification was given to him by way of advertisement on the Tribunal website.

The Case Management Discussion

- 5 The Case Management Discussion took place on 30 July 2020 by teleconference. Miss Anne-Marie Morrice appeared on behalf of the Applicant. The Respondent was not present.
- 6 Having noted that the efforts made by the Applicant to trace the Respondent, the failed 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 Miss Morrice confirmed that the Applicant sought an order for payment of rent arrears in the sum of £2600. The Legal Member confirmed that the Respondent had moved into the property in July 2019. He had made one payment of rent in cash, then nothing further. The Respondent had subsequently vacated the property following the commencement of repossession proceedings. Shortly after lockdown Ms Morrice had noticed him online on WhatsApp and sent him a message. She advised him of the proceedings. He had apologised but offered not payments and Mr Morrice had heard nothing since. He had left no forwarding address and the Applicant had received no further contact from him.

Findings in Fact and Law

- 8 The parties entered into a Private Residential Tenancy Agreement in respect of the property which commenced on 1 July 2019.
- 9 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent to the Applicant at the rate of £650 per month.

- 10 The tenancy terminated on 31st December 2019. As at the date of termination rent arrears in the sum of £2600 were outstanding.
- 11 The Respondent is liable for payment of the said sum of £2600 in terms of the Tenancy Agreement between the parties.
- 12 Despite repeated requests the Respondent has refused or delayed to make payment of the sums due.

Reasons for Decision

- 13 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.
- 14 Having considered the terms of the tenancy agreement and rent statement 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 £2600 to the Applicant. 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

30 July 2020

Legal Member/Chair

Date