



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/21/1982

Re: Property at 3 Gibliston Farm Cottage, Leven, KY9 1JS (“the Property”)

Parties:

Balcarres Estate, Estate Office, Colinsburgh, KY9 1HJ (“the Applicant”)

Miss Cheryl Bruce, formerly residing at 3 Gibliston Farm Cottage, Leven, KY9 1JS, and whose current whereabouts are unknown (“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 was an application for a payment order submitted on 10th August 2021 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 of £1,820.00, and provided with its application copies of a short assured tenancy agreement and a rent arrears 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.

Service was validly effected by advertisement in terms of Rule 6A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, and the Tribunal was provided with confirmation of service by advertisement.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 14th February 2022 by Tele-Conference. The Applicant did not participate, and was represented by Miss Thomson, letting agent. The Respondent did not participate, nor was she represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Miss Thomson with reference to the application and papers to grant an order for payment of the sum of £1,280.00. The Tribunal noted that the original monthly rental agreement of 2013 provided for a monthly rent of £400.00, but that the period of arrears from January 2020 to July 2021 showed a monthly rental due of £470.00 per month in the rent arrears statement.

Miss Thomson confirmed that the original rental figure had been increased several times over the duration of the tenancy. During the Case Management Discussion, she e-mailed the Tribunal evidence of the last increase of the rent to £470.00 with effect from February 2019.

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 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.

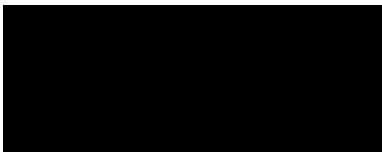
The Tribunal considered the terms of the short assured tenancy agreement, the rent arrears statement, the further information regarding the increase of rent, and Miss Thomson's submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicant in respect of rent arrears of £1,280.00 as sought. Accordingly, the Tribunal made an order for payment of the sum sought.

Decision

In these circumstances, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of £1,280.00.

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.



Legal Member: Neil Kinnear

Date: 14th February 2022