

Housing and Property Chamber

First-tier Tribunal for Scotland



First-tier Tribunal for Scotland (Housing and Property Chamber)

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/21/2117

Re: Property at 28B Crown Street, Aberdeen, AB11 6AY (“the Property”)

Parties: Dr Lorraine Dinardo, Miss Karen Dinardo, Mr Mark Dinardo, c/o Dinardo & Partners, Mirren Court One, 119 Renfrew Road, Paisley, PA3 4EA (“the Applicants”)

Mr Brandon William Tyrone Kyle, Mr Geoffrey Scott Kyle and Mrs Christina Elisabeth Kyle, all 28B Crown Street, Aberdeen, AB11 6AY (“the Respondents”)

Tribunal Member: Ruth O’Hare (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondents to the Applicants of £2,651.60.

Background

- 1 By application to the Tribunal the Applicants sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondents to the Applicants. The sum sought was £1,450.
- 2 The application was accompanied by copies of a Private Residential Tenancy Agreement between the Parties commencing on 14 January 2020 at a rent of £725 per month and a Rent Statement showing arrears of £5075 as at 14 August 2021. The Applicants explained that they held earlier Orders made by the Tribunal in respect of arrears from 14 December 2020 to 15 June 2021, hence the lesser amount sought under the terms of this application.
- 3 On 22 September 2021, the Tribunal advised the parties of the date and time of a Case Management Discussion on 28 October 2021, and the Respondents were invited to make written representations by 13 October 2021.
- 4 On 14 October 2021 the Tribunal received an email from the Applicants with an up to date rent statement confirming arrears had increased to £6,726.60. The Respondents had been served with a Notice to Leave which was due to expire on 2 November 2021.

- 5 On 27 October 2021, the Tribunal received an email from Sally Mair, Solicitor of the Civil Legal Aid Assistance Office confirming that she had been instructed by Christina Kyle. She was seeking a postponement of the Case Management Discussion to enable full instructions to be taken from Mrs Kyle. The Tribunal refused the request and confirmed that the Case Management Discussion would proceed as planned.

Case Management Discussions

- 6 The first Case Management Discussion took place on 28 October 2021. Mr Mark Dinardo was in attendance on behalf of the Applicants. Mr Geoffrey and Brandon Kyle were also in attendance. The Tribunal noted the request for adjournment from Sally Mair on behalf of Mrs Kyle. Mr Brandon Kyle and Mr Geoffrey Kyle both advised that they were also seeking more time to consult with the solicitor. Reference was made to some repairs required to the property. Mr Dinardo pointed out the two previous orders granted by the Tribunal. The arrears exceeded £6,000 and Notice to Leave had been served. He refuted any suggestion that repairs were required and advised that he did not consider it reasonable for a further adjournment of the matter. Having heard from the parties the Tribunal agreed to adjourn for a short period. Mr Dinardo was advised to submit an application to amend the sum sought if he wished to pursue an increased amount.
- 7 A second Case Management Discussion was therefore assigned for 23 November 2021. The parties were advised of the new date and time by letters dated 2 November 2021.
- 8 On 28 October 2021 the Applicant submitted an email seeking amendment of the sum sought from £1450 to £2,651.60.
- 9 The second Case Management Discussion took place on 23 November 2021. Karen Dinardo and Mark Dinardo were present. All three of the Respondents were present. Mr Dinardo advised that the arrears had now increased to £3625 and the Applicant would wish to seek an order in that sum. The Respondents were still in occupation and no rent had been paid since March 2021. The Respondents advised that they were disputing that amount as they had not had sight of any rent statement to evidence the increased amount. The Legal Member noted that the formal request for amendment had sought an increase to £2651.60 and she would therefore be restricted to considering an order in that sum, it having been properly notified to the Respondents under the Tribunal's procedural rules. The Respondents each confirmed that they would not dispute the amended figure of £2651.60. The Respondents advised that they no longer had legal representation but were pursuing their options in this regard and there were various issues to do with disrepair at the property at they were exploring. However those arguments would form part of any future proceedings, for now they did not dispute the outstanding amount. There was subsequent discussion on matters that were not relevant to the Tribunal's consideration of the matter before it, such as recent issues with vandalism at the property. On the basis that the Respondents had clearly

stated they were not disputing the application for the amended sum of £2651.60 the Legal Member saw no basis upon which to fix a hearing.

Reasons for Decision

- 10 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 to enable it to decide the application without a Hearing. The Tribunal was satisfied the amended sum sought of £2651.60 had become lawfully due by the Respondents to the Applicants. This had been acknowledged by the Respondents.

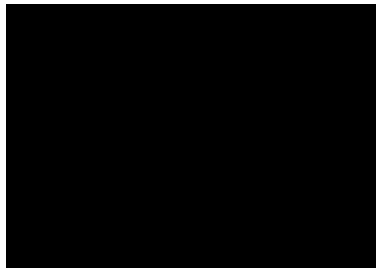
Decision

- 11 The Tribunal determined that the application should be decided without a Hearing and made an Order for Payment by the Respondents to the Applicants of £2,651.60.

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 Memb



ate: 23rd November 2021