



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/21/2154

Property: Flat 0/1, 13 Clarence Drive, Glasgow G12 9QL ("Property")

Parties:

Drumkeen Engineering Limited, 107 Hammerfield Avenue, Aberdeen AB10 7FD ("Applicant")

Ivy Property, 81 Lauderdale Gardens, Glasgow G12 9LQ ("Applicant's Representative")

Geoffrey and Jaime Guenther, Flat 0/1, 13 Clarence Drive, Glasgow G12 9QL ("Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Janine Green (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for payment of £1000 should be made.

Background

The Applicant sought an order for payment of £1,000 in respect of arrears of rent. The Applicant had lodged Form F. The documents produced were: Short Assured Tenancy Agreement dated 20 June 2016; Short Assured Tenancy Agreement dated 20 June 2017; Minute of Variation of Short Assured Tenancy dated 30 May and 4 June 2018; email from John Sweeney to the First Respondent dated 15 October 2020 and certificate of service by Sheriff Officer evidencing service of the Application on the Respondents on 24 February 2022.

Case Management Discussion ("CMD")

A CMD took place on 11 April 2022 at 10am by conference call. In attendance for the Applicant was Clare Brown of the Applicant's Representative; John and Trish

Sweeney and their daughter, Jennifer Lamb. Both Mr and Mrs Guenther were in attendance.

Ms Lamb told the Tribunal that she is a solicitor and would represent the Applicant. She said that there had been an issue at the Property regarding lighting which was now resolved. She said that the Respondent had withheld rent because of the issue with the lighting. She said that the Respondent was not entitled to withhold rent in terms of the tenancy agreement. She also said that the appropriate notice had been given to increase the rent in October 2020.

Mr Guenther told the Tribunal that the lighting problem had been fixed. He said that the transformers in the light were replaced in June 2021. He said that the Respondent was currently paying rent at the increased level of £1,500. He said that the reason the Respondent had withheld rent in the period December 2020 to July 2021 was because they had received notification of eviction proceedings.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondents had entered into a tenancy agreement dated 20 June 2017.
2. The tenancy was for the period 20 June 2017 to 19 June 2018 and unless terminated would continue thereafter on a month to month basis.
3. The tenancy was extended to 20 June 2019 by Minute of Variation dated 30 May and 4 June 2018.
4. A Notice to Quit dated 15 June 2021 was served on the Respondents on 16 June 2021 stating that the tenancy would terminate on 20 December 2021.
5. A Notice in terms of Section 33 of the 1988 Act dated 15 June 2021 was served on the Respondents on 16 June 2021 stating that possession of the property was required on 20 December 2021.
6. In terms of the tenancy agreement the rent was £1,350 per month.
7. In terms of the tenancy agreement the Applicant was entitled to increase the rent on giving two month's prior notice.
8. The Applicant gave the Respondent notice on 15 October 2020 that the rent would increase to £1,500 per month with effect from 20 December 2020.

9. The Respondent failed to pay the difference between the previous rent of £1,350 and the revised rent of £1,500 in the period 20 December 2020 to 20 July 2021. The unpaid amount was £1000.

Reasons for the Decision

The Tribunal determined to make an Order for payment. In terms of the tenancy agreement the Applicant was entitled to increase the rent. Two months' notice of the increase had been given. Reference had been made to a dispute regarding lighting at the Property. Parties agreed that this had been resolved. The reason given for non-payment of the full rent was that the Applicant had taken steps to recover possession of the Property. That was not a valid defence to a claim for non-payment of rent.

Decision

The Tribunal grants an order for payment of £1,000.

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.

J Devine

Legal Member

Date : 11 April 2022