



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/2806

Re: Property at Lochend Farmhouse, Wellwood, Dunfermline, KY12 0RY (“the Property”)

Parties:

Mrs Tracey Thomson, 6 Pitdinnie Place, Cairneyhill, Dunfermline, KY12 8RD (“the Applicant”)

Mr Connar Venters, Mr Dany Davidson, Lochend Farmhouse, Wellwood, Dunfermline, KY12 0RY (“the Respondents”)

Tribunal Members:

Nairn Young (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- Background

This is an application for an order for payment of rent arrears alleged to be owed by the Respondents to the Applicant in terms of their private residential tenancy of the Property. It called for a case management discussion (‘CMD’) at 2pm on 16 February 2022, by teleconference. The Applicant was represented on the call by Ms Grosvenor of Harper Macleod LLP, solicitors. The Respondents did not call in and were not represented. The commencement of the CMD was delayed by 10 minutes to allow for any technical difficulty they may have been experiencing, but there was no contact from them.

Notice of the application and the time of the CMD was served on the Respondents by sheriff officers on 12 January 2022. The Respondents had not made any written representation or contacted the Tribunal to indicate that they were unable to attend the CMD. In the circumstances, the Tribunal considered that they were aware of the CMD but had chosen not to attend. It was in the interests of justice, and in particular the avoidance of unnecessary delay, for the CMD to proceed in their absence.

- Findings in Fact

1. The Respondents let the Property from the Applicant in terms of a private residential tenancy, with a start date of 1 April 2020.
2. In terms of that agreement, rent of £1,000 was to be paid on the first day of each month.
3. The Respondents paid only £620 on 1 November 2020.
4. No rent was paid on 1 December 2020, or since.
5. This application was received by the Tribunal on 15 November 2021, seeking payment of the sum of £12,380.
6. As of the date of the CMD, rent arrears of £15,380 were due.

- Reasons for Decision

7. A preliminary matter that required consideration in this case was that the Applicant had made an application to amend the sum sought to £15,380 on the 14 February 2022. In doing so, she quoted rule 13 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules"). The Tribunal indicated that it considered that rule 13 applied to written representations that were to be amended in advance of a hearing. Rather, in this case, the appropriate rule to consider was rule 14A of the Rules, which

applied to amendment of an application that does not introduce new matters. That rule requires 14 days notice to be given to the other party and the Tribunal of the proposed amendment. The Applicant indicated that she would prefer to drop her application to amend, rather than ask for a postponement to allow that notice period to be observed. The Tribunal therefore did not consider the application to amend any further.

8. On the substance of the application, the Tribunal found that the sum sought was owed by the Respondents to the Applicant (at least) and that an order for payment of that amount should therefore be made.

- Decision

Order made for payment by the Respondents to the Applicant of the sum of £12,380 (TWELVE THOUSAND, THREE HUNDRED AND EIGHTY POUNDS STERLING).

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.

N Young

16 February 2022

Legal Member/Chair

Date