



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 (“the 2014 Act”) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/CV/21/3036

Re: Property at 15 Ranco Gardens, Uddingston, North Lanarkshire, G71 6GZ (“the Property”)

Parties:

Mr Kamran Ahmed, c/o 26 Cadzow Street, Hamilton, ML3 6DG (“the Applicant”)

Excel Letting, 26 Cadzow Street, Hamilton, ML3 6DG (“the Applicant’s Representative”)

Mr Scott Daniel Lynch, 15 Ranco Gardens, Uddingston, North Lanarkshire, G71 6GZ (“the Respondent”)

Tribunal Members:

Ms. Susanne L M Tanner Q.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that the Respondent should pay to the Applicant the sum of FIVE THOUSAND SEVEN HUNDRED AND TWENTY FIVE POUNDS (£5725.00) STERLING; and made an Order for Payment in respect of the said sum.

Procedural background

1. The Applicant's Representative made an Application to the tribunal on 6 December 2021, in terms of Section 16 of the 2014 Act and Rule 111 of the 2017 Rules, seeking an order for payment against the Respondent in the sum of £4425.00 in respect of rent arrears.
2. The Application documentation submitted by the Applicants' Representative comprised:
 - 2.1. A Private Residential Tenancy agreement dated 5 March 2019; and
 - 2.2. A rent ledger showing rent arrears to 8 December 2021.
3. On 21 December 2021, in response to a request from the tribunal, the Applicant's Representative produced signed landlord terms of business and on 11 January 2022, a signed mandate authorising the Applicant's Representative to act on behalf of the Applicant.
4. The tribunal's administration obtained the Title Sheet for the Property which shows that the Applicant was registered as proprietor on 4 January 2019.
5. On 3 February 2022, the Application was accepted for determination by the tribunal.
6. On 3 February, the Applicant's Representative indicated that rent arrears had increased and produced a rent arrears statement for the period to 9 January 2022. The Applicant's Representative wished to amend the Application to seek the increased sum of £5725.00.
7. By letter of 24 January 2022, parties were notified of the date, time and place of a Case Management Discussion ("CMD") teleconference on 12 April 2022 at 1400h. The Respondent was invited to submit written representations to the Application by 17 March 2022.
8. The Respondent was served with the application paperwork and notification of the CMD by Sheriff Officers on 25 February 2022.
9. No written representations were submitted by the Respondent in advance of the CMD.

CMD: 12 April 2022, 1400h, teleconference

10. Mrs Joanne Smith from the Applicant's Representative attended.
11. The Respondent did not attend the CMD. The tribunal was satisfied that the requirements of rule 24(1) regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the party present and all the material before it, in terms of Rule 29.
12. Mrs Smith stated that she was seeking a payment order for £5725.00, as stated in Section 5 of the Application and the request to amend. The tribunal allowed the amendment to Section 5 to show that the sum claimed is £5725.00 for the period to 8 February 2022.
13. In relation to the rent arrears, Mrs Smith relied on the obligation to make rent payments as specified in the tenancy agreement, which is the sum of £650.00 paid monthly in advance, on 9th of each calendar month. Mrs Smith referred to the updated rent statement which was lodged with the request to amend the Application.
14. Mrs Smith confirmed that the Respondent still lives in the Property. The Applicant's Representative has issued Notice to Leave which expires on 30 April 2022. The Respondent has continued to ask the Applicant's Representative when he needs to leave. Mrs Smith stated that the Respondent appears to have no intention to pay any rent, either arrears or rent falling due. There have been numerous attempts to get him help, including grants. Further payments have become due on 9 February, 9 March and 9 April 2022, none of which have been paid.
15. The Applicant has asked Mrs Smith to seek an order in terms of the Application as amended to seek £5725.00 for the period up until 8 February 2022.
16. Mrs Smith stated that it is the Applicant's intention to make another payment application at or about the same time as the application for eviction, seeking rent arrears from 9 February 2022 until the Respondent leaves the Property.
17. Mrs Smith stated that a deposit of £975.00 was paid at the outset and it is lodged with Safe Deposits Scotland. The Applicant will apply for it to be deducted from any arrears or other sums due at the end of the tenancy.
18. There was no defence to the Application, as amended.

Findings-in-Fact

19. The Applicant is the registered proprietor of the Property.
20. In terms of a Private Residential Tenancy agreement between the parties in respect of the Property dated 15 March 2019, the start date of the tenancy was 9 March 2019.
21. Rent is payable by the Respondent to the Applicant at the rate of £650.00 per calendar month, on 9th of each month, in advance.
22. The rent arrears which accrued from 9 March 2019 to 8 February 2022 amounted to £5725.00.
23. The Respondent has not made any payments to the Applicant in respect of rent arrears since 11 October 2021.
24. The Respondent paid a deposit of £975.00 which remains lodged with a tenancy deposit protection scheme.
25. The Respondent's tenancy is ongoing and he has been served with a Notice to Leave which expires on 30 April 2022.

Discussion

26. As the tribunal was satisfied that the Respondent owes £5725.00 to the Applicant by way of rent arrears from the period from 9 March 2019 to 8 February 2022 in the sum of £5725.00, the tribunal made an Order for Payment in the sum of £5725.00.

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.

Ms. Susanne L M Tanner Q.C.
Legal Member/Chair

12 April 2022