

Housing and Property Chamber
First-tier Tribunal for Scotland



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/22/1171

Property: 0/2, 19 Carmyle Avenue, Glasgow G32 8HL ("Property")

Parties:

Arnold Clark Automobiles Ltd, 454 Hillington Road, Glasgow G52 4FH ("Applicant")

Happy Lets Ltd, 1287 Argyle Street, Glasgow G3 8TL ("Applicant's Representative")

Eleanor Friel, 0/2, 19 Carmyle Avenue, Glasgow G32 8HL ("First Respondent")

William Wilson Sommerville, 49 Battles Burn Drive, Glasgow G32 8HF ("Second Respondent")

Tribunal Members:

Joan Devine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("Tribunal") determined that an order for payment of £2,820 should be made.

Background

The Applicant sought an order for payment in respect of arrears of rent. The Applicant had lodged Form F. The documents produced were: Short Assured Tenancy Agreement between the Applicant and the First Respondent dated 7 November 2016; Guarantor Agreement between the Applicant and the Second Respondent dated 7 November 2016; statement of rent arrears as at 25 April 2022 and certificate of service by Sheriff Officer evidencing service of the Application on each Respondent on 29 June 2022.

A Case Management Discussion ("CMD") was fixed for 9 August 2022. Neither Respondent was in attendance. A further CMD was fixed for 1 September 2022. At the request of the First Respondent the CMD fixed for 1 September 2022 was postponed until 9 November 2022. The date of the postponed CMD was intimated to each Respondent on 7 October 2022. By email dated 31 October 2022 the Applicant's Representative provided a statement of rent arrears as at 31 October 2022 showing a total due of £5,320. This was intimated to both Respondents.

Case Management Discussion ("CMD")

A CMD took place on 9 November 2022 at 10am by conference call. In attendance for the Applicant was Amanda Currie of the Applicant's Representative. The First Respondent was in attendance. The Second Respondent was not in attendance. Ms Currie told the Tribunal that

a payment to account of £2,500 had been received from the First Respondent which reduced the arrears to £2,820. The First Respondent agreed the sum outstanding. She said that she had contacted Money Advice and had arranged for housing benefit to be paid direct to the Applicant. She said there would be a shortfall of £20 per month. She said she wanted to set up a payment plan. The First Respondent said that she was not in touch with the Second Respondent.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the First Respondent had entered into a tenancy agreement dated 7 November 2016.
2. The Applicant and the Second Respondent had entered into a Guarantor Agreement dated 7 November 2016.
3. The tenancy was for the period 7 November 2016 to 6 November 2017 and unless terminated would continue thereafter on a month to month basis.
4. In terms of the tenancy agreement the rent was £445 per month.
5. The Respondent had failed to pay the rent due in full for the period 28 February 2021 to 30 October 2022. Following a payment to account of £2500, the unpaid amount was reduced to £2,820.

Reasons for the Decision

The Tribunal determined to make an Order for payment. In terms of the tenancy agreement rent was due at the rate of £445 per month. The rent had not been paid in full for the period 28 February 2021 to 30 October 2022.

Decision

The Tribunal grants an order for payment of £2,820.

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

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Date : 9 November 2022