



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/22/3203

Re: Property at T/L 6E York Way, Renfrew, PA4 0NG (“the Property”)

Parties:

Mr Ross Martin, 9 Kinmount Avenue, Glasgow, G44 4RR (“the Applicant”)

Miss Chloe Kernachan, Mr James Gallacher, Miss Stacey Kernachan, T/L 6E York Way, Renfrew, PA4 0NG (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant’s application should be dismissed, the Applicant and Respondent having both confirmed there were no sums due by the Respondent to the Applicant at the date of the Case Management Discussion of 16 March 2023

Background

A Case Management Discussion (CMD) had been held on 20 December 2022 at 10am by teleconference. Bannantyne Kirkwood France & Co, Solicitors, Glasgow represented the Appellant. Mr James Gallacher and Miss Stacey Kernachan were present for the Respondent.

The Appellant is the owner of the Property. The Respondent is the tenant of the Property and has been since 1 June 2019. It was not in dispute that there were arrears of rent due by the Respondent under the lease at that point. As at the date of the CMD there were arrears of £2,745. This was agreed as the relevant amount by the parties.

The Appellant sought an order for payment of the arrears together with interest at the base rate for the time being.

There was a conjoined eviction application running alongside this payment action. The Tribunal was not satisfied as at the date of the first CMD that it had sufficient information before it to reach a landing on an appropriate time to pay direction. In relation to the eviction action, there appeared to be a reasonable prospect of the Respondent making payment of the arrears in short order. There appeared to be other extenuating circumstances that meant the Tribunal required to consider in more detail whether it was reasonable to grant the eviction. Accordingly, the Tribunal continued the case to a second CMD.

A second CMD was held on 16 March 2023, again before Mr Miller and Mrs Currie. Again, the Applicant was represented by Bannantyne Kirkwood France & Co and Mr Gallacher and Ms Kernahan appeared for themselves.

Both parties confirmed that several payments had been made towards the arrears with a final payment being made the day before the CMD. Both parties confirmed that there were now no arrears or other sums due.

Findings in Fact

The Tribunal found the following facts:-

- The Applicant was the owner of the Property
- The Applicant had let the Property to the Respondent from 1 June 2019
- There were no arrears of rent or other sums due between the parties as at the date of the second CMD

Reasons for the Decision

There being no sums due by the Respondent to the Applicant, the action was no longer required and was dismissed.

Decision

The Applicant's application was dismissed there being no sums due by the Respondent to the Applicant as at the date of the CMD.

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/Chair

16th March 2023

Date