



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 111 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/CV/22/3447

Re: Property at 8 Walker Court, Forres, IV36 1ZQ (“the Property”)

Parties:

Mr Chris Marshall, 22 Lochloy Crescent, Nairn, IV12 5BD (“the Applicant”)

Mr Daniel Foster, residing formerly at 8 Walker Copurt, Forres, Moray IV36 1ZQ and now at 34 Castlehill Road, Forres, IV36 1PY (“the Respondent”)

Tribunal Members:

David Preston (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that the applicant is entitled to an Order for Payment by the respondent in the sum of TWO THOUSAND ONE HUNDRED AND SEVENTY FIVE POUNDS AND TWENTY NINE PENCE (£2145.29).

Background:

1. By application dated 29 September 2022 under Rule 111 of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 the applicant applied to the Tribunal for an order for payment in respect of arrears of rent.
2. The application was accompanied by: Private Residential Tenancy Agreement dated 21 January 2019; and Rent Statement covering the period to 1 November 2022.
3. By Decision dated 17 October 2022 a Legal Member of HPC having delegated power for the purpose, referred the application under Rule 9 of the Regulations to the tribunal.
4. By email dated 11 November 2022 the applicant’s agent advised that the respondent had vacated the property and provided a forwarding address.
5. A letter of Intimation with Notice of the Case Management Discussion (“CMD”) together with the application and case papers was served on the respondent at his

new address by Sheriff Officers on 30 November 2022, conform to Certificate of Service by Sheriff Officer of that date.

Case Management Discussion

6. The CMD was convened at 1000 on 17 January 2023 by telephone. Ms Rebecca Garner, Cluny Estate Agents attended the CMD on behalf of the applicant. The respondent neither appeared nor was represented. The tribunal delayed the start of the CMD until 1005 by which time the respondent had failed to join the call.
7. The tribunal was satisfied that the Notice of the CMD, together with the application and supporting documents had been served on the respondent by Sheriff Officers on 30 November 2022 as narrated above. The tribunal was satisfied that due notice had been given to the respondent to which he had failed to respond.
8. By email dated 10 November 2022 Ms Garner advised that the arrears of rent until 1 November 2022 which was the date on which the respondent had vacated the property amounted to £2175.29. Intimation of that sum together with a Rent Statement had been included in the papers served on the respondent.
9. The tribunal noted that the Private Residential Tenancy Agreement had commenced on 21 January 2019 and that the rent payable was £495 per month. The Rent Statement showed that arrears had accrued to the sum sought by 1 November 2022.

Reasons for Decision:

10. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
11. The tribunal accepted the information in the file and as provided by Ms Garner and determined to issue the order for payment as requested. The respondent had been given due notice of the CMD and had voluntarily waived his right to be present or represented.

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.

David Preston

17 January 2023