



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/0465

Re: Property at 1 South Park Cottages, South Parks Farm, Glenrothes, KY7 6HH (“the Property”)

Parties:

Balgonie Estates Limited (SCO09072), Estate Office, Markinch, Glenrothes, KY7 6HH (“the Applicant”)

Mr Lee Allan, 1 South Park Cottages, South Parks Farm, Glenrothes, KY7 6HH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

The matter called for a Hearing today by conference call in respect of an Application for a Payment Order for rent arrears said to have been accrued by the Respondent under a tenancy with the Applicant. The Hearing called alongside a related Hearing on the Application with reference FTS/HPC/EV/21/0553 in respect of an Eviction Order.

There had been a previous Case Management Discussion in respect of both Applications on 21 April 2021 at which Case Management Orders containing Directions had been made regulating the progress of the case towards today's Hearing. The Applicant had complied with those orders by lodging a witness list in addition to the documentary evidence that was submitted alongside the Application. The Respondent did not comply with the Directions made which had included ordering the Respondent to lodge written particulars of the Respondent's proposed

defence together with a witness list and any documentation to be relied on at the Hearings.

The Applicant was represented by Ms Allanson, solicitor, of Anderson Strathern. There was no appearance by or on behalf of the Respondent. Details of today's Hearing together with information about how to join the conference call and a copy of the Case Management Discussion decisions and Directions had been served on the Respondent on 28 April 2021. The Tribunal therefore decided to proceed with the Hearing in the absence of the respondent.

The Hearing

Ms Allanson intended to lead evidence from one witness in support of the Application for a Payment Order. The sum originally sought in the Application was £6,886.00 but this sum had been amended prior to the Hearing to the amount now sought today which was £7,636.00.

Mr Daniel Balfour

Mr Balfour is a director of the Applicant and has been for around 10 years. He was familiar with the issues with the Respondent as it had been brought to his attention that the Respondent had significant rent arrears. Mr Balfour spoke to a rent statement that had been produced and answered questions from the Tribunal about how the sums in that statement had been calculated. Mr Balfour confirmed that the Applicant was seeking a Payment Order in the sum of £7,636.00 in respect of rent arrears although actually now the sum of £8,101.00 was due. Mr Balfour spoke to having made efforts to contact the Respondent to find out what the issues were, but he had not received any response. The Tribunal considered Mr Balfour a credible and reliable witness and had no reason to doubt that that he was not being truthful with the Tribunal.

Having considered the Application with enclosures and having heard evidence from Mr Balfour, the Tribunal made the following findings in fact.

Findings in Fact

- I. The parties entered into a Private Residential Tenancy at the Property that commenced on 23 October 2019;*
- II. The Applicant was the landlord and the Respondent was the tenant in respect of that tenancy;*
- III. The Respondent has fallen into rent arrears currently in excess of the sum claimed in the Application of £7,636.00 which is lawfully due to the Applicant, but which remains unpaid.*

Decision

Having made the above findings in fact, the Tribunal unanimously granted the Application and made a Payment Order in the sum of £7,636.00 with interest to run on that sum from today's date until payment at the rate of 5 per cent per year.

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.



Andrew McLaughlin
Legal Member/Chair

27 May 2021
Date