



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/21/2420

Re: Property at Flat Above 6 High Street, Moffat, DG10 9EU (“the Property”)

Parties:

R.Little (Bakers) Limited , 6 High Street, Moffat DG10 9EU (“the Applicant”)

Mr Damian Smith, 17 Duncan Drive, Moffat, DG10 9JW (“the Respondent”)

Tribunal Member:

George Clark (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be determined without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £9,862.75.

Background

By application, received by the Tribunal on 4 October 2021, the Applicant sought an Order for Payment in respect of unpaid rent and charges for gas and electricity that had become lawfully due by the Respondent to the Applicant. The sum sought was £9,862.75, being £8,500 in respect of rent and £1,362.75 for gas and electricity.

The application was accompanied by a copy of a Minute of Lease between the Parties commencing on 3 October 2016 at a rent of £650 per month, and a copy Rent Book and Rent Statement, showing arrears as at the date of application of £8,500. The Applicant also provided copies of utilities bills and calculations showing that, as at 20 May 2021, the Respondent was due to pay £1,342.67, that he had paid £200 in July 2021 and that he was due to pay a further £220.08 for the period from 21 May 2021 to 15 September 2021, when the tenancy ended. The balance due for gas and electricity was, therefore, £1,362.75.

On 8 March 2022, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondent was invited to make written

representations by 29 March 2022. The Respondent did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the afternoon of 26 April. The Applicant was represented by Mr Corie Wilson, trainee solicitor, of McJarrow & Stevenson, solicitors, Lockerbie. The Respondent was present and told the Tribunal that he accepted that the sum sought was due. He had started a new job and was prepared to make payments of £200 per month by Direct Debit. Mr Wilson told the Tribunal that his instructions were to seek the Order, but that he anticipated that his clients would be amenable to payment by instalments. The Order would, however, protect them against the possibility that an agreement could not be reached or that any agreement was not adhered to by the Respondent. The Respondent confirmed to the Tribunal that he understood the Applicant's position and accepted that the Order should be made. He provided Mr Wilson with an email address through which a line of communication could be set up.

Reasons for Decision

Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it all the information and documentation it required to enable it to decide the application without a Hearing.

The Tribunal was satisfied that the sums sought by way of unpaid rent and unpaid utilities bills had become lawfully due by the Respondent to the Applicant. The Respondent did not dispute any of the sums sought. The Tribunal noted the positions of the Parties regarding a possible agreement between them on an instalment payment plan, but that the Respondent had not completed and submitted an application form to pay by instalments which had been sent to him with the notification of the Case Management Discussion. Accordingly, the Tribunal decided to grant the application and make the Order for Payment. The hope of the Tribunal is, however, that an acceptable arrangement for repayment will be agreed between the Parties, thus avoiding the need for further enforcement action.

Decision

The Tribunal determined that the application should be determined without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £9,862.75.

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.

George Clark

Legal Member/Chair

26 April 2022
Date