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/20/1281

Re: Property at 17/8 Timberbush, Edinburgh, EH6 6QH ("the Property")

Parties:

Mr Richard Flinn, C/O DJ Alexander Lettings, 1 Wemyss Place, Edinburgh, EH3 6DH ("the Applicant")

Mr David Maybank, 17/8 Timberbush, Edinburgh, EH6 6QH ("the Respondent")

Tribunal Members:

Yvonne McKenna (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment by the Respondent to the Applicant in the sum of £8800 (EIGHT THOUSAND EIGHT HUNDRED POUNDS) be made.

Background

This is an application for a payment order dated 15th June 2020 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of the First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended.(the Rules)

The Applicant sought in his application payment of arrears in rental payments totalling £6160.He provided with his application the tenancy agreement, a statement of arrears, 3 letters regarding rent increases for the Property and a letter of authority for his Representatives to act.

The short-assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served with the notification of the CMD the application papers and guidance notes by Sheriff Officers on 26th August 2020. The tribunal was provided with the execution of service.

Case Management Discussion (CMD)

A CMD was held by teleconference on 21st September 2020 at 2pm. The CMD was heard along with a conjoined eviction case FTS/HPC/EV/20/1276. The Applicant was represented by Miss Dyina Greeney a Debt Recovery Administrator with D J Alexander. The Respondent was present on the teleconference call.

On the date of the CMD the Applicant lodged an updated rent statement showing the arrears of rent as at the date of the CMD. This included a further 3 months of rental due between when the application was lodged and the date of the CMD.

Miss Greeney sought to amend the application in terms of Regulation 13 of the Rules seeking to increase the sum claimed from £6160 to £8800.The Respondent was given an opportunity to indicate whether he opposed this amendment. He said that he accepted that this amount was due, and he did not oppose the amendment request.

The Applicant invited the tribunal to grant an order for payment in the sum of £8800 in respect of rent arrears.

Findings in Fact

The tribunal make the following Findings in Fact;

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property.

2. The rent in terms of the tenancy Agreement was originally £650 per month. The rent had been increased on several occasions and from 30th May 2019 it was increased to £880 per month.

3. The Respondent has failed to make payment of rent due for the period from 13th December 2019   to   the date of the CMD 21ST September 2020.

4. The arrears of rent total £8800.

Reasons for Decision

The tribunal determined to make an Order for payment of £8800 being the arrears of rent. In terms of the tenancy agreement the Respondent was obliged to pay rent at

the rate of £880 per month. He had failed to any any rent since 13th December 2019. He accepted that position.

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.

Y McKenna

Yvonne McKenna   **21st September 2020**

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Legal Member/Chair   **Date**