

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/CV/19/2126

Re: Property at 7 Kingsmills Court, Elgin, IV30 4EW (“the Property”)

Parties:

Mr Stephen Parker, Mrs Gillian Parker, L'Abbaye des Chateliers, 79340, Fomperron, France (“the Applicant”)

Mrs Dorota Ewa Ofat, 7 Kingsmills Court, Elgin, IV30 4EW (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £2,380 to the Applicants in relation to rent arrears.
2. The application contained :-
 - A copy of the tenancy agreement,
 - Rent statement
 - Letter to respondent confirming the amount of arrears as at 1 May 2019.
3. The Notice of the Hearing had been served on the Respondent by sheriff officers on 8 August 2019.

4. Today's case management discussion was held by telephone conference call. Stephen Parker, the first Applicant called in and took part on behalf of both Applicants. The Respondent did not call in and did not take part in the case management discussion. As I was satisfied that the Respondent had received notice of today's hearing I was prepared to proceed in her absence.

Hearing

5. The Applicant referred me to the tenancy agreement between the Applicants and the Respondent. He confirmed that the rent payable was £450 per month in advance. He referred me to the rent statement submitted with the application showing the amounts paid and the amount due.
6. The Applicant advised that the tenancy had commenced on 7 July 2015. There had been on-going issues with rent arrears as can be seen from the rent statement, however he submitted that it was usually manageable amounts. However in the last year or thereabout the arrears had increased and were now at such a level that they had to take action to recover these sums.
7. He advised that the current arrears were now in the region of £6,400. He advised that he had obtained an order for payment earlier in the year for rent arrears due up to 7 September 2018 this sum was £2650.
8. He advised that when he submitted this application the total arrears were £5360, and he sought £2380 being the balance of arrear due as at 7 April 2019. He advised that since 1 May 2019, the Respondent had perhaps made one rental payment towards the rent but that was all and there had been no other payments by her and the arrears had in fact increased given that on-going rent was due.
9. He advised that they had attempted to get her to pay the arrears on a number of occasions. He advised that she was well aware that she owed the rent and arrears. He believed that she had sought advice for debt management from the local council and they had advised her pay at least something towards the arrears however no money had been forthcoming.
10. He therefore sought an order for payment of £2,380.

Findings in Fact

11. The Tribunal found the following facts to be established:
12. A tenancy agreement was entered into between the Applicants and the Respondent for the Property and existed between the parties. It was entered into on 7 July 2015.

13. The tenancy agreement provided that rent was £450 was payable per calendar month in advance. Rental payments are due on the 7th day of every calendar month.
14. The rental statement showed amounts due each month, amounts received, and rent outstanding up to 7 April 2019.
15. That the rental statement showed total rent arrears outstanding as at 7 April 2019 being £5030.
16. That an order had been granted for £2650 for part of the total rent arrears under case ref: FTS/HPC/CV/18/2641.
17. That there had been no payments towards the rent arrears (to 7 April 2019) other than as shown on the rental account.

Reasons for Decision

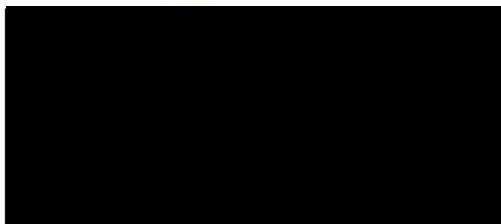
18. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to actions arising from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988.
19. As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this case.
20. There was no response or appearance from the Respondent.
21. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was submitted a rental statement showing the arrears due and additional information was provided today by the Applicants that the sum sought for rent was still outstanding as at today's date, and in fact the sum owed for rent had in fact increased.
22. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sought.

Decision

23. I grant an order in favour of the Applicants for TWO THOUSAND THREE HUNDRED EIGHTY POUNDS (£2,380.00) STERLING against the Respondent.

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

10 - 9 - 19

Date