



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/1497

Re: Property at 118 High Street, Montrose, DD10 8JD (“the Property”)

Parties:

Mr Paul Bertolotto and Mrs Gemma Bertolotto, 17 Scotston Farmhouse, Laurencekirk, Aberdeenshire, AB30 1DN (“the Applicant”)

Mr Douglas Dick-Reid, Dick Watson Construction, Fasque Estate, Fettercairn AB30 1DN (“the Applicant’s representative”)

Mr Gavin Ramsay, 118 High Street, Montrose, DD10 8JD (“the Respondent”)

Tribunal Member:

Aileen Devanny (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £450.00 should be made for arrears of rent due for the period from 8 September 2018 until 7 February 2019.

Background

1. On 15 May 2019 the Applicant lodged an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rule of Procedure. He also lodged an application under Rule 109 seeking an eviction order. The application was for an order for payment of rent arrears for the above named Property. On 31 July 2019 the application was amended for it to proceed in the name of Mrs Gemma Bertolotto as well as Mr Paul Bertolotto.

2. No written representations were received from the Respondent in response to notification of the application in terms of Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.
3. This case called for a first case management discussion (CMD) on 19 March 2020 before the Tribunal. The proceedings were conducted by teleconference and the Applicant's representative participated as did the Respondent. The Respondent stated that he accepted there were rent arrears of £1150.00. The parties made a payment arrangement to clear the arrears and the case management discussion was continued to a future date and intimation was given by the Applicant that if the arrears were cleared the applications would be withdrawn.
4. The case called at a second CMD held by teleconference on 24 August 2020. The Respondent did not attend but the Applicant's representative was present and confirmed the sum sought had reduced to £550 and a further CMD was sought to allow the Respondent an opportunity to clear the sum claimed.
5. Notification of the third CMD due to take place on 26 February 2021 at 10am by teleconference was carried out by e-mail on the Respondent on 22 January 2021. The Applicant's representative was similarly notified by e-mail of this date.
6. A direction was issued to the Applicant in advance of the third CMD seeking that the Applicant provide to the Tribunal an up to date statement of rental payments made by the Respondent towards the sum claimed and showing the sum alleged to be still outstanding.

The Applicant complied with this direction and a copy of the statement was issued by the tribunal to the Respondent. This copy statement was sent to the Respondent.

The Third Case Management Discussion held on 26 February 2021

7. The Respondent did not attend the CMD. An unsuccessful attempt was made by the tribunal clerk to contact him by telephone to check if he intended to participate in the CMD. The CMD proceeded with the participation only of the Applicant's representative via conference call. Written notification had been given to parties in advance that the Tribunal could decide the matter at a CMD if satisfied it had sufficient evidence and it was fair to do so.
8. The Legal Member explained the procedure for the CMD at the start of the proceedings and clarified with the Applicant's representative that the rent arrears owing were £450 and that was the sum sought. The Applicant's representative confirmed that eviction and payment orders were sought. He stated that the Respondent had not maintained the instalment payment arrangements. The Applicant's representative stated that the Respondent had not challenged the sum was due to be paid.

9. Findings in Fact

- A tenancy agreement is in place for the Property. The Landlords are the Applicant. The tenant is the Respondent.
- The Respondent is due to pay the Applicant rent at the rate of £400 per calendar month in advance.
- At the date of the first CMD the rent arrears due for the period from 8 September 2018 until 7 February 2019 were £1150.00. By the date of the third CMD the rent arrears had reduced to £450.00 but no payments towards the arrears had been made by the Respondent since 5 October 2020.

10. Reasons for Decision

Having been satisfied that the amount of £450.00 is due by the Respondent to the Applicant for the rent for the Property, a payment order for that sum is made.

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.

Aileen Devanny

**Mrs A Devanny
Legal Member
Date: 26/02/2021**