

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision 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/18/1381

Re: Property at 7/25 Arneil Drive, Edinburgh, EH5 2GN ("the Property")

Parties:

Telford NHT 2011 LLP, Miller House, 2 Lochside View, Edinburgh, EH12 9DH ("the Applicant")

Mr Garikayi Simbarashe, 7/15 Arneil Drive, Edinburgh, EH5 2GN ("the Respondent")

Tribunal Members:

Maurice O'Carroll (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Applicant should be granted a payment Order in the sum of £3,571.88.

Background

1. A Short Assured Tenancy was entered into between the parties on 13 May 2016. The rent payable under the tenancy was £627.42, rising to £673.90 per calendar month.
2. An application dated 31 May 2018 was received by the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) 2017 ("the Rules").
3. The Applicant sought payment of the sum of £3,571.88 being the amount of arrears as at the date of the application in respect of the lease between the parties.
4. A Case Management Hearing ("CMD") took place on 13 September 2018. Notice of the CMD was provided to the Respondent. The Notice advised that a decision

could be made at the CMD and that the case did not necessarily require to go to a full hearing of the Tribunal. A Certificate of Intimation dated 29 August 2018 vouching service of the current application by Sheriff Officers was provided to the Tribunal.

Case Management Discussion

5. At the CMD, held at George House, George Street, Edinburgh at 10am, Mr Mattheson of Messrs TC Young appeared on behalf of the Applicant. There was no appearance by the Respondent.
6. The Tribunal was provided with a schedule of rent arrears that showed the rent arrears as at 9 May 2018 of £3,571.88. No correspondence was received on behalf of the Respondent disputing the amount of the rent arrears.

Findings in fact

- The parties entered into a Short Assured Tenancy on 13 May 2018 in respect of the Property
- An AT5 was served on the Respondent prior to signature of the lease
- A monthly rental of £673.90 was payable in terms of the lease between the parties
- Rent arrears had been allowed to build up by the Respondent. As at the date of the CMD, rent arrears were £3571.88
- The Application had been properly served on the Respondent and the date of the CMD and the nature of the proceedings had been notified to the Respondent

Statement of reasons

7. The Tribunal granted the Order on the basis that there was no dispute that the rent arrears had accumulated to the level stated by the Applicant.
8. There were no matters in dispute requiring a full hearing. The Respondent had been given the opportunity to contest the application and to appear at the CMD but had not done so.
9. On that basis, the Tribunal was satisfied that it was appropriate to grant the Order sought by the Applicant.

Decision

10. The Tribunal grants the Order for payment of the sum of £3,571.88 sought by the Applicant.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Maurice O'Carroll

Legal Member/Chair

13 September 2018
Date