



Decision 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/23/0987

Re: Property at 8 Dick Place, Stoneyburn, West Lothian, EH47 8BD (“the Property”)

Parties:

Mr Colin Michael Wilson, 87 Hunter Grove, Bathgate, West Lothian, EH48 1NN (“the Applicant”)

Mr Grant Blacklock Thompson Tyrie, 150A High Street, Kirkcaldy, Fife, KY1 1NQ (“the Respondent”)

Tribunal Members:

Alison Kelly (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 should be made.

Background

1. The Applicant lodged an application on the 23rd March 2023 under Rule 111 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking payment of rent arrears.
2. Lodged with the application were:
 - a. Tenancy Agreement showing a commencement date of 18th January 2022 and a rent of £800 per month;
 - b. Letter to the Respondent regarding arrears dated 2nd February 2023;
 - c. Email from the Respondent dated 2nd February 2023 confirming he would leave that weekend;
 - d. Email from Applicant to Respondent regarding proposed payment plan;
 - e. Rent Statement

3. On 19th July 2023 the Respondent sent an email to the Tribunal seeking an adjournment. He gave reasons but did not want these to be disclosed to the Applicant. The Tribunal's administration was unable to deal with the Respondent's email until 26th July 2023, the day before the Case Management Discussion. The administration staff sent an email to the Respondent on the afternoon of 26th July 2023 asking for permission to disclose his email to the Applicant in the interests of fair notice. No response was received. On the morning of the Tribunal the Chairperson instructed the clerk to telephone the Respondent to advise that the Case Management Discussion would still call, but the number would not connect.

Case Management Discussion

4. The CMD took place by teleconference. The Applicant represented himself. The Respondent did not attend and was not represented.
5. The Chairperson explained the circumstances to the Applicant. He confirmed that the Respondent no longer lived in the property and the debt was not increasing.
6. The Chairperson confirmed that, in terms of Rule 2 of the Tribunal's Rules the overriding objective of the Tribunal was to act justly. Given that the Tribunal's administration had not been able to deal with the Respondent's email prior to 26th July 2023, and given that the clerk had not been able to reach the Respondent by telephone, the Chairperson advised that she felt she had no choice but to adjourn the CMD to another date.
7. The Tribunal issued a Direction to the Respondent requiring him to provide a written note of his defence to the claim. The Direction advises that failure to do so and failure to attend at the adjourned Case Management Discussion would be likely to lead to an order being granted. The written defence was to be provided by 28th August 2023. No written defence has been received.

Continued Case Management Discussion

8. The CMD took place by teleconference. The Applicant represented himself. The Respondent did not attend and was not represented.
9. The Chairperson confirmed the purposes of a CMD in terms of Rule 17 of the Tribunal's rules.
10. The Applicant sought a payment order in the amount of £1050 as per the balance outstanding on the rent statement. He said that the respondent gave notice on 2nd February 2023 and left about two weeks later, which was not the full notice period.

Findings In Fact

- a. The parties entered into a Tenancy Agreement with a commencement date of 18th January 2022 and a rent of £800 per month
- b. The Respondent gave notice on 2nd February 2023 and left several weeks later;
- c. At the end of the tenancy there was a balance outstanding of £1050.

Reasons For Decision

At the end of the tenancy there was a balance outstanding by the Respondent to the Applicant of £1050.

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.



Legal Member/Chair

26th October 2023

Date