



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/23/1891

Re: Property at 23 Derby Gate, Bellshill, ML4 1FG (“the Property”)

Parties:

Kelleigh McRae and Rupinder Rai, 74 Dumgoyne Drive, Glasgow, G61 3AW (“the Applicants”)

Gary Straub, 23 Derby Gate, Bellshill, ML4 1FG (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondent)

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

1. This is an application by the Applicants for civil proceedings in relation to an assured tenancy in terms of rule 70 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears. The tenancy in question was an Assured Tenancy (said to be a Short Assured Tenancy) of the Property by Applicants to the Respondent commencing on 6 November 2015 (though the Tenancy Agreement itself made no reference to the second Applicant).
2. The application was dated 8 June 2023 and lodged with the Tribunal on or about that day. The application was accompanied with a rent statement showing purported arrears as at 7 June 2023 of £6,600.00 covering rent due to 30 June 2023. The statement showed the arrears as having developed since 1 July 2022 through non-payment of the monthly rent of £550. The rent was due on the 1st of each month.
3. In advance of the case management discussion, the Applicants’ agent provided an updated rent statement showing the arrears (covering rent due to 31

October 2023) to be £8,800, with the last payment made by the Respondent on 27 May 2022 in regard to the rent due on 1 June 2022.

The Hearing

4. On 31 October 2023 at 14:00, at a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting remotely by telephone conference call, we were addressed by the second Applicant (Mr Rai) and the Applicants’ agent, Vikki McGuire, Lettings Manager, Jewel Homes. As of 14:05, there was no appearance by the Respondent (that is, neither he nor anyone on his behalf had dialled in).
5. Our clerk informed us that there had been no contact from the Respondent with the Tribunal. The Applicants’ agent stated that all recent contact with the Respondent had been by text, as he was no longer responding to telephone calls, and that on 6 October 2023 he had responded to a text asking whether he was still in occupation. His response was that he was in occupation and was awaiting the outcome from the Tribunal (presumably referring to a conjoined eviction application). We noted that intimation of the application had taken place by the Sheriff Officer instructed by the Tribunal on 27 September 2023. We were thus satisfied that there was no appearance by the Respondent and, in the circumstances, decided to consider the application in full at the CMD in the absence of the Respondent.
6. The Applicants’ agent confirmed that the application for payment was still insisted upon and, despite further arrears now arising, an order was sought at this time only in regard to the £6,600 due to 30 June 2023.
7. The second Applicant confirmed that no interest was sought, though we noted that the Tenancy Agreement included a contractual interest rate. No order for expenses was sought.

Findings in Fact

8. By written lease dated 2 November 2015 the parties agreed a lease with a start date of 6 November 2015 until 7 May 2016 which would “continue from month to month thereafter until terminated” (“the Tenancy”).
9. Under the Tenancy, the Respondent was to make payment of £550 per month in rent in advance to the Applicants on the 1st of each month.
10. As of 8 June 2023, there was unpaid rent of £6,660.00 due by the Respondent to the Applicants in terms of the Tenancy in respect of missed payments for the rental payments due on 1 July 2022 to 1 June 2023.
11. On or about 8 June 2023, the Applicants raised proceedings for an order for outstanding rent due to 30 June 2023 in the sum of £6,600.00.

12. As of 31 October 2023, no payment has been made in respect of the said arrears of £6,600 due to 30 June 2023.
13. On 27 September 2023, a Sheriff Officer acting for the Tribunal intimated the application and associated documents upon the Respondent, providing the Respondent with sufficient notice of the CMD of 31 October 2023.
14. The Respondent provided no evidence of payment of any part of the said unpaid rent due to 30 June 2023 of £6,600.00.

Reasons for Decision

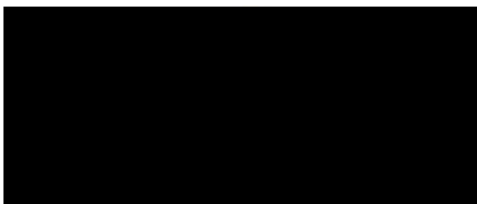
15. The application was in terms of rule 70, being an order for civil proceedings in relation to assured tenancies. We were satisfied, on the basis of the application and supporting papers, that rent arrears in the figure of £6,600.00 were outstanding for the period to 30 June 2023 as at the date of the CMD. In all the circumstances, we were thus satisfied that the necessary level of evidence for such civil proceedings on the sum of £6,600.00 had been provided and no defence or dispute was made by the Respondent to this figure.
16. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and we were satisfied to make a decision at the CMD to award the sum of £6,600.00 against the Respondent.
17. We noted that this sum related to rent due to 30 June 2023 and the Applicants thus reserved their position in regard to any further claim under the lease against the Respondent.

Decision

18. In all the circumstances, we were satisfied to make the decision to grant an order against the Respondent for payment of the sum of £6,600.00 to the Applicants.

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.



31 October 2023

Legal Member/Chair

Date