



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17(4) of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) in respect of an application under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”) and Rule 111 of the Rules

Chamber Ref: FTS/HPC/CV/23/2264

Re: Property at 20 Houldsworth Street, Blairhall, Dunfermline, KY12 9PU (“the Property”)

Parties:

Mr William Russell, La Plechade, 25 Chemin De Chapelier, Luby Betmont, France, 65220 (“the Applicant”) per his agents Bannatyne Kirkwood France & Co 16 Royal Exchange Square, Glasgow, G1 3AG (“the Applicant’s Agents”)

Miss Beth-Louise Fleming, 20 Houldsworth Street, Blairhall, Dunfermline, KY12 9PU (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order for the Sum of FOUR THOUSAND ONE HUNDRED AND TWENTY POUNDS (£4,120.00) Sterling

Background

1. By application received on 6 July 2023, the Applicant’s Agents on behalf of the Applicant applied to the Tribunal for a payment order requiring the Respondent to make payment of all outstanding rent due by her. The Application comprised a copy of a tenancy agreement between the Parties, copy statement of rent due and owing by the Respondent since July 2022 showing arrears of £3,780.00 to 16 July 2023 and copy correspondence in satisfaction of the pre-action requirements.
2. The Application comprised the following:

- i) copy private residential tenancy agreement between the Parties showing a monthly rent of £340.00;
 - ii) copy rent statement showing arrears of £3,780.00 due and owing at 16 July 2023 and the last payment made by the Respondent on 18 July 2022 and
 - iii) pre-action requirement letters sent to the Respondent.
3. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the "CMD") was fixed for 26 October 2023 at 14.00 by telephone conference. The CMD was intimated to both Parties, and, in particular, was intimated to the Respondent by Sheriff Officer service on 19 September 2023.
 4. Prior to the CMD, the Applicant's Agents submitted an updated rent statement showing that arrears of £4,120.00 were due and owing to 16 August 2023.

CMD

1. The CMD took place on 26 October 2023 at 14.00 by telephone. The Applicant was represented by Miss Matthew of the Applicant's Agents. The Respondent was not present and was not represented. She did not submit written representations.
2. Miss Matthew confirmed that the Applicant sought a payment Order. She advised that the Respondent had not made any further payments and that £5,140.00 is now due and owing.
3. With regard to the circumstances of the Parties, Miss Matthew advised that as far as she is aware the Respondent appears to continue to reside in the Property on her own and was employed as a care worker at the start of the tenancy. With regard to the Applicant, Miss Matthew advised that the Applicant has a property portfolio which he intends to sell. He has a secured interest-only mortgage on the Property and has annual financial commitments as a landlord, all of which he has funded himself as there has been no rental income.

Findings in Fact

5. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There is a private residential tenancy of the Property between the Parties commencing on 17 June 2022;
 - ii) The monthly rent is £340.00;
 - iii) Rent arrears of £5,140.00 are due and owing by the Respondent to the Applicant;
 - iv) The Application was amended to seek an Order for £4,120.00;
 - v) The Respondent has made only two rental payments, being £340.00 on 17 June 2022 and £300.00 on 18 July 2022 since the start of the tenancy;

Decision and reasons for the decision

1. The Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussionincluding making a decision” Having found in fact that the Respondent is due and owing to the Applicant for the sum of £5,140.00, the Application being amended to £4,120.00, the Tribunal proceeded to make an order for payment in this lower sum.

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

26 October 2023.

Date