



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/23/3435

Re: Property at 1F4, 4 Edina Street, Edinburgh, EH7 5PN (“the Property”)

Parties:

Flat Earth Properties Limited, 1 Park Road, Eskbank, Dalkeith, EH22 3DF (“the Applicant”)

Mr Tomas Vagasky, 1F4, 4 Edina Street, Edinburgh, EH7 5PN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Angus Lamont (Ordinary 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 is granted in favour of the Applicant for the amount of £6975.00 (SIX THOUSAND NINE HUNDRED AND SEVENTY FIVE POUNDS).

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £6975 in terms of s16 of the Housing (Scotland) Act 2014.
2. On 13th December 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 7th February 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 3rd January 2024.

3. On 18th December 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent in the hands of his wife. This was evidenced by Certificate of Intimation dated 18th December 2023.
4. This case is conjoined with FTS/HPC/EV/23/3432.

Case Management Discussion

5. A CMD was held on 7th February 2024 at 2pm by teleconferencing. The Applicant was represented by Mr John MacAulay, solicitor, Ennova Law. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the CMD.
6. Mr MacAulay said that the Respondent is in arrears on his rent account. He has not made any payments since 2nd January 2023. The arrears currently stand at £12459. It is believed that the Respondent has been working but had lost his job. It is also believed that the Respondent found new employment in a food warehouse. The Applicant was informed on 11th April 2023 the Respondent has started a translation service. It is believed that the Respondent has not applied for Universal Credit at any point. Mr MacAulay said that there has been no contact by the Respondent since August 2023. At that point there had been another eviction application which was withdrawn as it had not met the legal requirements for an application.
7. Mr MacAulay lodged an up to date rent account to 1st March 2024. It detailed arrears of £12459. Mr MacAulay accepted that the amount sought could not be increased as it had not been lodged in enough time to notify the Respondent. Mr MacAulay said that he was seeking the amount detailed in the application of £10559. There was a payment order granted by the Housing and Property Chamber on 4th October 2023 for £3584. He is seeking the difference between the Order granted and the amount sought in the application which is £6975.

Findings and reason for decision

8. The parties entered into a Short Assured Tenancy on 2nd September 2014 for a 6 months period. An AT5 was signed by both parties on the same date as the lease. The rent payments of £475 are due on the 2nd day of each month.
9. The Housing and Property Chamber received an Application on 28th September 2023.
10. The Respondent has not addressed the ongoing rent charge 2nd January 2023. The arrears are £12459. There have been no payments to the arrears since that date either.
11. The Respondent has not contacted the Applicant or his agents since August 2023.

12. The Respondent owes the Applicant the amount sought for outstanding rent arrears.

Decision

13. The Applicant is entitled to an order of payment of £6975.00 (SIX THOUSAND NINE HUNDRED AND SEVENTY FIVE POUNDS) by the Respondent.

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.



7th February 2024

Legal Member/Chair

Date