



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/23/0691

Re: Property at Flat 2/2, 43 Fairburn Street, Glasgow, G32 7QG (“the Property”)

Parties:

Biggar & Hay Ltd, 1/1, 5 Whitehill Gardens, Glasgow, G31 2PR (“the Applicant”)

Ms Malgorzata Monika Bartoszak, Flat 3/2, 964 Govan Road, Glasgow, G51 3AJ and Mr Bartoz Daniel Derlatka, whose present whereabouts are unknown (“the Respondents”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be granted against the Respondents for payment to the Applicant the sum of Eleven Thousand Seven Hundred and Forty Five Pounds (£11,745)

Introduction

1. This application is under rule 70 and section 16 of the Housing (Scotland) Act 2014. The application seeks recovery of rent arrears.
2. Intimation of the application is certified to have been made on the first respondent by sheriff officers on 28 September 2023. Service by advertisement on the Chamber website was published on both 8 November 2023 and 8 April 2024.
3. The first CMD took place on 17 January 2024. Further information was required from the applicant. The further CMD took place on 2 May 2024 at 10am. The

applicant was represented by Miss Pauline Ward of Kee Solicitors. The respondents failed to participate in the hearing.

Findings and Reasons

4. The property is Flat 2/2, 43 Fairburn Street, Glasgow G32 7QG. The applicant is Biggar & Hay Ltd who is the heritable proprietor and registered landlord of the property. The respondents are Ms Malgorzata Monika Bartoszak and Mr Bartoz Daniel Derlatka who are the former tenants.
5. On 2 November 2021, the tribunal granted an eviction order against the respondents in case referenced FTS/HPC/EV/21/1532. An order for possession was made in terms of section 18 of the Housing (Scotland) Act 1988 under ground 8 of schedule 5 of the 1988 Act.
6. The parties entered into a short assured tenancy in respect of the property which commenced on 28 June 2017. In terms of the tenancy agreement the rent was £435 per month. The respondents vacated the property on 18 December 2021.
7. During the subsistence of the tenancy, the respondents fell into significant rent arrears. The application has been supported by a number of different rent statements. Upon analysis of the various rent statements rent was unpaid from September 2019 onwards. The sum sought is restricted to the rent charges from this time. Earlier rent statements are accepted to be unreliable.
8. The applicant seeks to recover the arrears of rent lawfully due under and in terms of the lease. It is entitled to do so. The total arrears for the period September 2019 until December 2021 is £11,745 which is recoverable.
9. The respondents refuse or unreasonably delay to pay the outstanding rent due and, in the circumstances, a payment order is necessary. No application for a time to pay direction has been made.

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.

R Mill

2 May 2024

Legal Member/Chair

Date