



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/23/3893

Re: Property at 5 Rose Lane, Kelso, TD5 7AP (“the Property”)

Parties:

Mr Robin Thomson, Ruthven Cottage, Coldstream, Berwickshire, TD12 4JU (“the Applicant”)

Mr Aaron Rowe, 5 Rose Lane, Kelso, TD5 7AP (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicants in the sum of THREE THOUSAND AND EIGHTY POUNDS (£3080.00) STERLING with interest at 8% per annum. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an action for recovery of rent arrears raised in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a tenancy agreement dated 30 October and 7 November 2013 between the Applicant, the Respondent and Mrs Helen Rowe, rent increase letters dated 7 January 2022 and 7 July 2023, a letter to the Respondent dated 21 October 2023 and a rent statement to 7 November 2023.

3. On 2 April 2024, the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 9 May 2024. The Respondent required to lodge written submissions by 23 April 2024. This paperwork was served on the Respondent by Christopher Andrew, Sheriff Officer, Edinburgh on 3 April 2024 and the Execution of Service was received by the Tribunal administration.
4. The Respondent did not lodge any written representations.

Case Management Discussion

5. The Tribunal proceeded with the CMD on 9 May 2024 by way of teleconference. The Applicant appeared and represented himself. His brother Iain Thomson was also in attendance. There was no appearance by or on behalf of the Respondent despite the teleconference starting 5 minutes late. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence. The case was heard with an application for eviction under reference FTS/HPC/EV/24/0235.
6. The Tribunal had before it the tenancy agreement dated 30 October and 7 November 2013 between the Applicant, the Respondent and Mrs Helen Rowe, the rent increase letters dated 7 January 2022 and 7 July 2023, the letter to the Respondent dated 21 October 2023 and the rent statement to 7 November 2023. During the course of the CMD the Tribunal also received the AT5 which accompanied the tenancy agreement. The Tribunal considered the terms of these documents.
7. Mr Thomson explained he was seeking an order for arrears in the sum of £3080 with 8% interest per annum from the date of the order. The Respondent had failed to pay rent and was in arrears of £7980. No rent had been paid since 1 September 2023. The Applicant explained he had made various attempts to get the Respondent to engage including texts and emails. He had made three visits to the Property and believed that the Respondent had refused to answer the door on occasions although the Applicant believed he was at home.

Findings in Fact

8. The Applicant entered into a Short Assured Tenancy Agreement dated 30 October and 7 November 2013 with the Respondent and Mrs Helen Rowe.

9. In terms of Clause 2.1 of the Short Assured Tenancy Agreement the Respondent agreed to pay rent of £550 per month. The rent has increased since then.
10. In terms of Clause 19.2 of the Short Assured Tenancy Agreement all late payments shall bear interest of 8% per annum.
11. The Respondent started to accrue arrears from January 2023. The Respondent has been in arrears of rent ever since. The last payment to rent was of £200 on 1 September 2023. The Respondent was in arrears of £3080 as at the date of the application.

Reasons for Decision

12. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Thomson.
13. The Tribunal noted terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to 7 November 2023 of £3780 albeit the application was for £3080. Nothing had been paid by the Respondent since 1 September 2023. The Applicant produced evidence of persistent non-payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Thomson's submissions that the order for payment in favour of the Applicant be granted for the sum of £3080. Further with reference to the tenancy agreement the Tribunal was satisfied that the Applicant was entitled to interest on the outstanding arrears of 8% per annum.

Decision

14. The Tribunal granted an order for payment of £3080 with interest at 8% per annum from the date of the Order until payment. The decision of the Tribunal was unanimous.

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.

9 May 2024

Legal Member

Date