



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/24/1654

Re: Property at 32 Victory Avenue, Gretna, DG16 5AB (“the Property”)

Parties:

Amy Balfour (nee Steele) and David Balfour, residing together at 438 Falls Road, RD 2, Waerenga, Te Kauwhata, New Zealand, 3782, New Zealand (“the Applicants”)

Stephanie Jarzyna, 32 Victory Avenue, Gretna, DG16 5AB (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum of £4790 was lawfully due by the Respondent and granted an order for payment of that sum by the Respondent to the Applicant, together with interest thereon at the rate of 5% per annum running from the date of the decision of the First-tier Tribunal to grant this order, being 19th July 2024, until payment.

Background

- 1. By an application dated 11th April 2024 (“the Application”), the Applicants sought an order for payment of £3275.00 from the Respondent in respect of rent arrears.**
- 2. A copy of the Application, along with a letter from the Tribunal giving details of a proposed Case Management Discussion, was intimated by Sheriff Officer upon the Respondent on 17th June 2024.**

3. A Case Management Discussion (“CMD”) took place by teleconference on 19 July 2024. The Applicants were represented at the CMD by John Jarvie, trainee solicitor. The first Applicant also joined the conference call from New Zealand. The first Applicant listened to proceedings at the CMD but did not otherwise participate in the CMD.
4. The Respondent did not join the CMD call. The Tribunal were satisfied that the Application, and details of the CMD, had been intimated upon the Respondent by Sheriff Officers on 17th June 2024. The Respondent has not made any written representations to the Tribunal in advance of the CMD. The Tribunal was satisfied that the Respondent had been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”) had been duly complied with. In the circumstances the Tribunal proceeded with the application in accordance with rule 29 of those Procedure Rules.
5. At the CMD the Tribunal was able to consider:
 - a. The terms of the tenancy agreement between the parties. The tenancy agreement was a Private Residential Tenancy Agreement in relation to the Property. The tenancy between the parties had commenced 12 September 2019. The initial monthly rent due in terms of the tenancy agreement between the parties was £500.00. The rent due in terms of the tenancy agreement had thereafter been increased to £505 per month.
 - b. A Statement of rent and arrears had been lodged with the Application showing total rent arrears due by the Respondent as of 12 March 2024 in the sum of £3275.00.

Applicant’s Request to Amend the Application

6. By email dated 4 July 2024 the Applicants sought to amend the sum claimed in their application by increasing the sum sought by way of rent arrears to the figure of £4790. A copy of the Applicants requests to amend the claim in these respects was served by recorded delivery (by the Applicants) upon the Respondent under cover of a letter dated 4 July 2024. The Applicants intimated an updated rent statement to the Tribunal and the Respondent with their application to amend the sum claimed. That updated statement of rent and arrears showed total rent arrears due by the Respondent as of 12 June 2024 in the sum of £4790.
7. At the start of the CMD the Tribunal considered the Applicants’ request to amend the application.

8. In relation to the Applicants' request to increase the sum sought by way of rent arrears to the figure of £4790 the Tribunal considered the application under Rule 14A of the Tribunal Regulations (Request to amend the application in respect of matters other than new issues). The Tribunal noted that the Respondent had notice of the proposed amendment at least 14 days prior to the CMD. No objection to the amendment had been intimated by the Respondent. In the circumstances the Tribunal granted the Applicants' request to increase the sum claimed (in relation to rent arrears) to £4790.

Further Information:

9. The Applicants' representative explained to the Tribunal the Respondent had accrued rent arrears in the sum of £4790 as shown in the rent statement which the Respondent had lodged with the Tribunal. The Applicant's representative confirmed that no payment had been made by the Respondent towards the rent arrears after the date of the Application. He explained that the sum of £4790 continued to be due by the Respondent to the Applicant in respect of arrears of rent accrued by the Respondent during the term of the tenancy agreement between the parties.
10. The Applicant asked the Tribunal to grant an order for payment against the Respondent in favour of the Applicant for the sum of £4790.
11. The Applicants representative requested the tribunal to award interest on the sum claimed at the rate of 5% per annum from the date of any order made by the Tribunal in relation to the claim for payment.

Findings in fact, and in fact and law; reasons for decision

12. The Applicants let the Property to the Respondent in terms of a written tenancy agreement which commenced on 12 September 2019. The current monthly rent due in terms of the tenancy agreement between the parties is £505.00.
13. As at 12 June 2024 the Respondent had accrued arrears of rent under the terms of the tenancy agreement in the sum of £4790.
14. As at the date of the CMD the sum of £4790.00 remains due and owing by the Respondent to the Applicants in respect of arrears of rent incurred by the Respondent in respect of his occupancy of the property.

Decision

Under rule 17(4) of the Procedure Rules the First-Tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

The Tribunal accordingly granted an order for payment by the Respondent to the Applicant in the sum of £4790 together with interest thereon at the rate of 5% per annum from the date hereof, until payment.

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.

A.Cowan

19/07/2024

Legal Member/Chair

Date