



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/23/1694

Re: Property at Flat 1/2, 5 Myrtle Place, Glasgow, G42 8UL (“the Property”)

Parties:

Mrs Shona Jassal, Mr Maninder Singh Jassal, 3 Clevedon Gardens, Harlington Hayes, Middlesex, UB3 1RD (“the Applicant”)

Mrs Catherine McFarlane, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal 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 should be made.

Background

1. The Applicant lodged an application on 20th April 2023 under Rule 70 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking payment of a sum of rent arrears. This was lodged along with an application for eviction.

2. Lodged with the Application were:

- a. Copy Private Residential Tenancy dated 13th October 2009 and showing a rent of £495 per month
- b. Rent Statement

3. The Applicant withdrew the eviction action stating that the Respondent had vacated the property on 1st August 2023.

4. The Application was served by Sheriff Officer on 26th September 2023 by means of depositing in the letterbox.

Case Management Discussion

5. A Case Management Discussion (“CMD”) took place by teleconference on 31st October 2023. Reference is made to the CMD Note. The CMD was continued for the following:

“The Respondent had left the property and the Applicant had vacant possession from August 2023. Service on the Respondent had taken place by Sheriff Officer on the 26th September 2023. The Respondent required to be served by advertisement by the Tribunal before the next hearing.”

The Applicant was advised that she needed to lodge information showing the rent increase from June 2022 or if this was not possible a rent statement showing the rent arrears due without the rent increase. This had to be lodged before the next hearing.

6. On 1st February 2024 a Service by Advertisement application form was sent to the Applicants for completion. The Applicants returned the form on 12th February 2024. They confirmed in the form that they had taken no steps to trace the Respondent.

7. The Applicants did not lodge any documentation in relation to the rent increase as requested at the CMD.

Continued CMD

8. The Continued CMD (“CCMD”) took place by teleconference on 13th May 2024. The Second Named Applicant represented the Applicants. There was no appearance by the Respondent.

9. The Chairperson confirmed the purposes of a CMD in terms of Rule 17 of the Rules.

10. The Chairperson asked the Second Named Applicant to confirm the amount of rent arrears for which she was seeking a payment order. She could not give a clear answer. She said that the Respondent had not paid the rent between October 2022 and July 2023.

11. The Chairperson asked the Second Named Applicant if she had the documentation to show how the rent increase had been intimated to the Respondent, as requested at the previous CMD. The Second Named Applicant was not clear on what the Chairperson was asking for and said that the agent had dealt with it. The agent had continued to pay £420 per month to the Applicants.

12. The Chairperson confirmed to the Second Named Applicant that she was not prepared to deal with the case on the basis of Service by Advertisement when the Applicants had not made any effort to trace the Respondent, as evidenced on the Service By Advertisement application form.

13. The Chairperson decided to continue the CMD again for the information previously requested to be provided, and for the Applicants to attempt to trace the Respondent.

Subsequent to Continued Case Management Discussion

14. The Tribunal issued a Direction to the Applicant to provide a rent statement showing the amount of outstanding rent for which the Applicants are seeking an order with the statement to contain columns for the date, rent due, rent paid and a running balance of arrears, documentation, in accordance with the law in relation to rent increases, to show how the rent increase was intimated to the Respondent and a tracing report from Sheriff Officers either confirming the Respondent's new address or confirming that she cannot be traced.

15. On 7th June 2024 the Applicant sent an email attaching a tracing report, a form AT2 and a Rent statement showing arrears of £5500.

16. The Tribunal allowed Service by Advertisement.

17. On 13th September 2024 the Tribunal produced a Certificate of Service by Advertisement.

Continued Case Management Discussion

18. The Continued CMD ("CCMD") took place by teleconference on 13th May 2024. The Second Named Applicant represented the Applicants. There was no appearance by the Respondent.

19. The Second Named Applicant moved for a payment order in the amount of £5500. As all the documentation was now in place the Tribunal was able to grant the order.

Findings In Fact

- i. The parties entered in to a Private Residential Tenancy dated 13th October 2009 and showing a rent with rent of £495 per month
- ii. The rent rose to £550 per month from June 2022
- iii. The tenancy came to an end on 1st August 2023
- iv. Rent arrears of £5500 are due

Reason For Decision

20. There are rent arrears of £5500.

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.

Alison Kelly

Legal Member/Chair

Date: 13/09/2024