



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/4520

Re: Property at 4C Balwhirley Road, Greenock, PA15 2TH (“the Property”)

Parties:

Golden Casket Ltd, Fort Matilda, Eldon Street, Greenock, PA16 7QF (“the Applicant”)

Mr Stephen Houston, 4C Balwhirley Road, Greenock, PA15 2TH (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order in the sum of Four thousand and eleven pounds and sixty four pence (£4,011.64) Sterling

Background

- 1 By application to the Tribunal the Applicant sought an order against the Respondent in respect of unpaid rent. In support of the application the Applicant provided a copy of the tenancy agreement between the parties, rent statement and copy correspondence from the Applicant to the Respondent regarding the rent arrears.
- 2 By Notice of Acceptance of Application a Legal Member with delegated powers from the Chamber President intimated that there were no grounds upon which to reject the application. A Case Management Discussion was therefore assigned and a copy of the application paperwork was served upon the Respondent by Sheriff Officers.

- 3 On 7 March 2024 the Applicant submitted an updated rent statement showing arrears of £4,011.64 as at 14 February 2024. The Applicant's correspondence was intimated to the Respondent.

The Case Management Discussions

- 4 The first Case Management Discussion took place on 28 June 2024. Neither party was in attendance. The Tribunal telephoned the Applicant's representative who advised that they were no longer acting for the Applicant. The Tribunal therefore determined to adjourn the Case Management Discussion to allow parties a further opportunity to attend. Notification of the adjourned Case Management Discussion was sent to the parties on 5 August 2024.
- 5 The second Case Management Discussion took place on 29 August 2024. The Applicant was represented by Mr Crawford Rae, Director. The Respondent was not present. The Tribunal noted that he had been given notification of the Case Management Discussion and therefore determined to proceed in his absence.
- 6 Mr Rae confirmed that he was seeking an order for payment against the Respondent in the sum of £4011.64. His company owned three properties and it had come to their attention in mid-2023 that the Respondent had been defaulting on his rent payments. An agent had been managing the property on the Applicant's behalf and they approached the Applicant with a repayment offer whereby he would pay the rent plus an additional amount towards the arrears. The Respondent didn't adhere to the payment plan. It appeared unlikely at that point that he would pay anything to the rent account. The Applicant therefore made an offer on 14 November 2023 to write off the arrears if the Respondent left the property by the end of that month. The Respondent did not avail himself of that opportunity. The Respondent eventually vacated the property at the end of February. Mr Rae advised that he did have sympathy for the Respondent's situation but he had been given chances and had chosen not to engage with the Applicant.

Findings in Fact

- 7 The Applicant and the Respondent entered into a tenancy agreement which commenced on 5 October 2020.
- 8 In terms of Clause 8 of the said tenancy agreement the Respondent undertook to pay rent at the rate of £350 per month.
- 9 The tenancy between the parties terminated on 14th February 2024.
- 10 As at the date of termination rent arrears of £4011.64 were outstanding.
- 11 Despite repeated requests the Respondent has refused or delayed to make payment of the sum due.

Reasons for Decision

- 12 The Tribunal was satisfied that it had sufficient information upon which to make a decision at the Case Management Discussion in the absence of the Respondent. The Respondent had been served with the application paperwork. He had been given the opportunity to put forward a response to the application and had chosen not to do so. The Tribunal therefore concluded that it would not be prejudicial to the Respondent for a decision to be made following the Case Management Discussion. There were no issues to be resolved that would require a hearing to be fixed.
- 13 The Tribunal was satisfied based on its findings in fact that the Respondent was liable to pay the Applicant the sum of £4011.64 under the terms of the tenancy agreement between the parties. There was nothing before the Tribunal to contradict the evidence put forward by the Applicant in support of the application.
- 14 The Tribunal therefore made an order for payment in the sum of £4011.64.

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.

Ruth O'Hare

29 August 2024

Legal Member/Chair

Date