



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 1988 (Act)

Chamber Ref: FTS/HPC/CV/24/1782

Re: Property at Flat 1, 18 Drum Terrace, Edinburgh, EH7 5NB (“the Property”)

Parties:

Mr George Brown, Mr David Yule, 4/2 Lynedoch Pleace, Edinburgh, EH3 7PX; 4/2 Lynedoch Place, Edinburgh, EH3 7PX (“the Applicant”)

Mr Marius Ksiazkiewicz, Flat 1, 18 Drum Terrace, Edinburgh, EH7 5NB (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent shall pay the Applicants the sum of £9,270.

Background

This is an application under Rule 70 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Rules)* and section 16 of the Act for an order for repayment of alleged rent arrears.

The Tribunal had regard to the following documents lodged in advance of the Hearing:

1. Application received 18 April 2024;
2. AT5 and SAT commencing 4 May 2014;
3. Sheriff Officer certificate of service of CMD Notification on 30 August 2024;
4. Applicants’ updated Schedule of Rent Arrears as at 4 October 2024.

Case Management Discussion (CMD)

The case called for a CMD by conference call on 8 October 2024. The Applicants did not participate but were represented by their Letting Agent. The Respondent did not participate and was not represented. He had dialled in at 9.30am and had been advised to call back at 10am. He did not do so.

The Tribunal delayed the start of the CMD to 10.20 am to see if the Respondent would participate but he did not.

The Tribunal were satisfied that the Respondent had received notification of the Case Management Discussion and that the Tribunal could determine the matter if it considered it had sufficient information to do so and the procedure was fair. The notification also advised the Respondent that he should attend and the Tribunal could determine the matter in absence if he did not.

The Letting Agent confirmed that the rental arrears had increased to £9,270 as at 4 October 2024. She sought amendment of the sum sued for to reflect the current arrears.

Decision and Reasons

The Tribunal considered the oral and documentary evidence. In so far as material the Tribunal made the following findings in fact:

1. The Parties let the subjects under a SAT commencing 4 May 2014;
2. As at the date of the CMD the Respondent was in rent arrears in the sum of £9,270;
3. Monthly rent was £900.

The Tribunal considered it had sufficient information to make a Decision at this stage and the procedure was fair. The Tribunal granted the amendment and the order sought.

Outcome

Order for payment in the sum of £9,270 granted.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland

(Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Alan Strain

8 October 2024

Legal Member/Chair

Date