



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/24/0521

Re: Property at 11 Fyne Road, Broughty Ferry, DD5 3JF (“the Property”)

Parties:

Ms Lindyanne Alexander, Cotton of Brighty, Dundee, DD4 0PU (“the Applicant”)

Mrs Christina Harrison , residing formerly at 11 Fyne Road, Broughty Ferry, DD5 3J and whose current address is unknown (“the Respondent”)

Tribunal Member:

Andrew Cowan (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum of £1974.57 is lawfully due by the Respondent and granted an order for payment of that sum by the Respondent to the Applicant.

Background

- 1. By an application dated 1st February 2024 (“the Application”), the Applicant sought an order for payment of £1450.00 from the Respondent in respect of rent arrears.**
- 2. A Case Management Discussion (“CMD”) took place by teleconference on 16th June 2024. In advance of that hearing the Application had been served upon the Respondent by Advertisement on the Tribunal website from 9th May 2024 until 17th June 2024, in terms of Rule 5(4) of the Tribunal rules of procedure. The Respondent did not join that CMD conference call.**

3. At the CMD of 16th June 2024 the Tribunal continued the application to a further CMD at a future date to
 - a) Allow the Applicant to make a written request to amend the sum claimed in the Application to an alternative specific sum, in terms of Rule 14(A) of the Tribunal rules of procedure.
 - b) Allow the Applicant an opportunity to lodge an updated rent statement in relation to the sum claimed, and
 - c) Allow the Tribunal to serve any amended application by way of advertisement on the Tribunal website.
4. By email dated 3rd July 2024 the Applicant lodged an amended application with the Tribunal. That amended application sought to increase the sum claimed to the sum of £1974.57.
5. By email dated 10th July 2024 the Respondent contacted the Tribunal administration. She requested the Tribunal to advise her of the outcome of the CMD which had taken place on 16th June 2024. The Tribunal emailed the Respondent a copy of the original application, together with a copy of the Applicant's application to amend the sum claimed. The Respondent was subsequently also provided with details of the continued CMD which had been arranged for 3rd October 2024. The Respondent was provided with details as to how to join the CMD on 3rd October 2024 by teleconference call.
6. A further CMD took place by teleconference on 03 October 2024. The Applicant joined that call. 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. 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.
7. 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 01 May 2020. The monthly rent due in terms of the tenancy agreement between the parties was £900.00.

- b. A rent statement showing the sum of £1974.57 as due by the Respondent as at 03 June 2024.

Applicant's Request to Amend the Application

8. By her email dated 3 July 2024 the Applicant sought to amend the sum claimed in their application by increasing the sum sought by way of rent arrears to the figure of £1974.57. A copy of the Applicant's request to amend the claim in this respect had been intimated to the Respondent by the Tribunal Administration on 12 July 2024.
9. At the start of the CMD the Tribunal considered the Applicant' request to amend the application.
10. In relation to the Applicant's request to increase the sum sought by way of rent arrears to the figure of £1974.57 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 this CMD. No objection to the amendment had been intimated by the Respondent. In the circumstances the Tribunal granted the Applicant's request to increase the sum claimed (in relation to rent arrears) to £1974.57.

Further Information:

11. The Applicant explained to the Tribunal that the Respondent had left the Property on 02 April 2024. The Applicant accepted that the tenancy agreement between the parties had terminated at that date. As at the date of termination of the tenancy the Respondent had accrued rent arrears in the sum of £1974.57 as shown in the rent statement which the Applicant had lodged with the Tribunal. The Applicant confirmed that no payment had been made by the Respondent towards the rent arrears after the date of the Application. She explained that the sum of £1974.57 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.
12. The Applicant asked the Tribunal to grant an order for payment against the Respondent in favour of the Applicant for the sum of £1974.57.

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

13. The Applicant let the Property to the Respondent in terms of a written tenancy agreement which commenced on 01 May 2020. The monthly rent due in terms of the tenancy agreement between the parties was £900.
14. The Tenancy agreement between the parties had terminated on 2 April 2024.
15. As at the date of termination of the tenancy between the parties the Respondent had accrued arrears of rent under the terms of the tenancy agreement in the sum of £1974.57.
16. As at the date of this CMD the sum of £1974.57 remains due and owing by the Respondent to the Applicant in respect of arrears of rent incurred by the Respondent in respect of her 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 £1974.57.

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.

Andrew Cowan

03 October 2024

Legal Member/Chair

Date

