



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/24/1244

Re: Property at 13 Tannadice Court, Dundee, DD3 7QB (“the Property”)

Parties:

Mrs June Robertson, 3 Stodrig Cottages, Kelso, TD5 7NZ (“the Applicant”)

Mr Steven Higgins, Ms Jean Reid, Mr Daniel Ferguson Higgins (SBA), UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) made a Payment Order in favour of the Applicant against the Respondents in the sum of £8,789.18.

Background

[2] The Applicant seeks a Payment Order in respect of rent arrears together with the costs of restoring damage caused by the Respondents to the Property under a tenancy agreement between the parties. Mr Daniel Ferguson Higgins is convened as a Respondent by virtue of a personal guarantee entered into in terms of which he accepted joint and several liability for the tenants’ obligations under that tenancy agreement.

[3] The Application is accompanied by a copy of the tenancy agreement, the personal guarantee agreement, rent statements and evidence showing the damage caused to the Property and invoices for the repairs. The photos supplied with the Application show a

Property in an extreme state of squalor with detritus piled up to and beyond waist height in virtually all rooms. The Property appears unfit for any form of safe habitation. The Application had called for a Case Management Discussion previously and been continued to allow the Applicant further time to assess and quantify the damage to the Property. The Applicant had subsequently emailed in further specification of the repairs required and competently amended the sum sought to the figure of £8,789.18.

Case Management Discussion

[4] The Application called for a further Case Management Discussion (CMD) by conference call at 10am on 2 October 2024. The Applicant was represented again by her letting agent, Mr Wilkie. There was no appearance by or on behalf of the Respondents. Permission had been granted previously for intimation of the CMD to be made on the Respondents by service on the Tribunal website. This had been competently effected. On 30 August 2024, Jean Reid had emailed the Tribunal with a brief email saying that she: *"had been trying to get in touch with the landlord with no luck.. I would of happily gave the new address. I am disabled and unsure what all this means. "*

[5] The Tribunal did not construe this as offering any defence to the Application or sufficient reason as to why any adjournment might be appropriate. It also suggested that Jean Reid was aware of the Application which brought her non- appearance into sharper focus.

[6] The Tribunal decided therefor to proceed in the Respondents' absence. Having heard from Mr Wilkie and having considered the full facts and circumstances of the Application, the Tribunal made the following findings in fact.

Findings in fact

- I. *The Parties entered into a tenancy agreement in terms of which the Applicant let the Property to Steven Higgins and Jean Reid;*
- II. *The tenants vacated the Property with the sum of £8,789.18 resting owed to the Applicant as rent arrears and the costs of making good damage caused to the Property by virtue of their tenancy and in breach of their obligations under that tenancy;*
- III. *Mr Daniel Ferguson Higgins entered into a personal guarantee in terms of which he accepted joint and several liability for the tenants' obligations.*

Decision

[7] Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order in favour of the Applicant against the Respondents in the sum of £8,789.18.

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 McLaughlin

Legal Member/Chair

2 October 2024

Date