



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/24/1577

Property : 29 Ashton View, Dumbarton G82 5DP (“Property”)

Parties:

Ian Burns, 26 Kingswood Road, Bishopton, Renfrewshire PA7 5LQ (“Applicant”)

Louise Kerr, 29 Ashton View, Dumbarton G82 5DP (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for payment of £843.80 should be made.

The Applicant sought an order for payment of £3,088.80 in respect of rent arrears. The Applicant had lodged Form F. The documents produced were: a short assured tenancy agreement which commenced on 1 July 2016 and information regarding rent arrears. The Tribunal had sight of a sheriff officer's execution of service certifying service of the Application on the Respondent on 28 August 2024. By email dated 23 September 2024 the Applicant told the Tribunal that he would be in Spain on the date of the CMD and may not be able to join the call as it was an 0800 number. He said he hoped the Tribunal could proceed in his absence. By email dated 26 September 2024 the Tribunal told the Applicant that he would be able to join the call from Spain and explained that in the absence of a party, the Tribunal may still decide to make a final decision. On 2 October 2024 the Applicant lodged a statement of rent arrears and a written representation in which he stated the rent had been reduced from £425 per month to £400 per month to assist the Respondent.

Case Management Discussion (“CMD”)

A CMD took place before the Tribunal on 8 October 2024 by teleconference. Neither the Applicant or the Respondent was in attendance. The Tribunal Clerk contacted the

Applicant by telephone to ask if he would join the call. He said that he would not as he was in Spain.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement which commenced on 1 July 2016.
2. In terms of the Tenancy agreement the rent was £425 per month.
3. The Applicant reduced the rent to £400 per month which was implemented from 1 March 2021.
4. The rent was increased to £415 per month which was implemented from 1 April 2023.
5. The Respondent failed to pay the rent in full for the period 28 February 2021 to 1 April 2024. The unpaid amount was £3,333.80.
6. The Respondent made payments towards the rent arrears of £415 on 30 April 2024, £830 on 26 July 2024 and £1000 on 31 August 2024.
7. The sums paid reduced the arrears by £2,245.

Reasons for the Decision

Reference is made to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. In terms of section 29 in the absence of a party, the Tribunal *may* proceed with the application upon the representations of any party present and the material before it. In terms of section 14A a party may request to amend the sum claimed by intimating the amendment to any other party and the Tribunal at least 14 days prior to a CMD or hearing.

In this case the amendment was intimated to the Tribunal on 2 October 2024 which was less than 14 days before the CMD. The Tribunal had no evidence before it to indicate that the amendment had been intimated to the Respondent. The Applicant did not attend the CMD to make an oral submission on the point. In those circumstances that Tribunal could not allow the sum claimed to be amended to the sum shown in the statement of arrears lodged on 2 October 2022 which showed the arrears as at 1 October 2022.

The Application was dated 4 April 2024. The sum claimed in the Application was £3,088.80. The statement of arrears lodged on 2 October 2024 showed that since the

application was lodged payments totalling of £415 on 30 April 2024, £830 on 26 July 2024 and £1000 on 31 August 2024. In the absence of a submission from the Applicant to the contrary, payments received are applied to the oldest debt. The sums paid reduced the arrears by £2,245. This left a balance due of £843.80.

The Tribunal determined to make an order for payment of £843.80.

Decision

The Tribunal grants an order for payment of £843.80.

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.

J. Devine

Legal Member:

Date : 8 October 2024