



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

Chamber Ref: FTS/HPC/CV/24/2120

Re: Property at 21 B West Main St, Darvel, KA17 0DX (“the Property”)

Parties:

CE Property Management Ltd, 40 Birchwood Avenue, Glasgow, G32 0NR (“the Applicant”)

Ms Sherree McGarry, unknown, unknown (“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 for payment in the sum of One thousand nine hundred and fifty pounds (£1950) Sterling

Background

- 1 By application to the Tribunal the Applicant sought an order for payment against the Respondent under Rule 111 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) in respect of unpaid rent in the sum of £1950. In support of the application the Applicant provided a partial copy of the tenancy agreement between the parties, bank statements and a rent reminder letter.
- 2 By Notice of Acceptance of Application dated 1 July 2024 a Legal Member of the Tribunal with delegated powers of the Chamber President intimated that there were no grounds to reject the application. The application was therefore referred to a Case Management Discussion to take place by teleconference.

- 3 Sheriff Officers attempted to serve notice of the application upon the Respondent at the tenancy address on 18 September 2024 and were advised that the Respondent had moved out several months ago. They were unable to obtain a forwarding address for the Respondent. Notification of the application was therefore given to the Respondent by advertisement on the Tribunal website between 24 September 2024 and 21 October 2024 under Rule 6A of the Rules.

The Case Management Discussion

- 4 The Case Management Discussion took place on 21 October 2024. The Applicant was represented by Mr Neil Campbell. The Respondent was not in attendance. The Tribunal noted that notification had been given to her under Rule 6A of the Rules and therefore determined to proceed in her absence.
- 5 The Tribunal explained the purpose of the Case Management Discussion and asked Mr Campbell to make submissions regarding the application. Mr Campbell confirmed that his firm had taken ownership of the property in September 2023 and had not received any rent from the Respondent. There had been some communication and attempts to enter into a payment plan but she had subsequently refused to engage. Mr Campbell believed that the Respondent had left the property in June 2024 however they had calculated the arrears up to the 5th May 2024 as they knew the Respondent was still there at that point. The arrears were £2275 as at that date.
- 6 The Tribunal explained that the sum sought in the application was £1950. If the Applicant wished to seek an increased sum a request for amendment would have to be submitted in accordance with the procedures under the Rules. The Applicant had not submitted such a request. Accordingly the Tribunal advised that it could adjourn the Case Management Discussion to allow an opportunity for the Applicant to do this. Mr Campbell advised that the Applicant would prefer to just seek an order for payment in the sum of £1950.

Findings in Fact

- 7 The Respondent entered into a tenancy agreement dated 23 March 2023 with Raymond Karpinski.
- 8 In terms of Clause 7 of the said tenancy agreement the Respondent undertook to make payment of rent at the rate of £325 per month.
- 9 The Applicant purchased the property from Raymond Karpinski on or around 1 September 2023. The Applicant notified the Respondent by letter of the change in ownership on or around that date.
- 10 By email dated 19 October 2023 to the Applicant the Respondent acknowledged the change of ownership and advised that she accepted the existing terms of the tenancy agreement, including the rent payable.

- 11 The Respondent failed to make payment of rent to the Applicant.
- 12 The Respondent vacated the property in June 2024.
- 13 As at 4 April 2024 rent arrears in the sum of £1950 were outstanding.
- 14 Despite repeated requests the Respondent has refused or delayed in making payment of the sum due.

Reasons for Decision

- 15 The Tribunal reached its decision taking into account the application paperwork and the verbal submissions from Mr Campbell at the Case Management Discussion. The Tribunal was satisfied that it had sufficient information to reach a decision following the Case Management Discussion and that it would not be prejudicial to the parties to do so.
- 16 The Tribunal therefore accepted, based on its findings in fact, that the Respondent was liable to pay the sum of £1950 to the Applicant under the terms of the tenancy agreement. There was nothing before the Tribunal to contradict the facts put forward by the Applicant.
- 17 The Tribunal therefore made an order for payment in the sum of £1950 against the Respondent in favour of the Applicant.

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

21 October 2024

Legal Member/Chair

Date