



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/2246

Re: Property at 16 Ashgrove Crescent, Ecclefechan, Lockerbie, DG11 3EA (“the Property”)

Parties:

Mrs Fiona Carruthers, Dunnekelly, Burnbank Street, Ecclefechan, Lockerbie, DG11 3DH (“the Applicant”)

Ms Lisa McGregor, 16 Ashgrove Crescent, Ecclefechan, Lockerbie, DG11 3EA (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Mary Lyden (Ordinary 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 against the Respondent in favour of the Applicant in the sum of THREE THOUSAND SIX HUNDRED POUNDS (£3600) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an action for rent arrears raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 14 April 2020 and a rent statement showing arrears of £3600 to 20 April 2024.

3. On 11 July 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 10 October 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 31 October 2024. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 15 November 2024. This paperwork was served on the Respondent by Christopher Andrew, Sheriff Officer, Edinburgh on 15 October 2024 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not make any representations.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 15 November 2024 by way of teleconference. Mr Edment from McJarrow and Stevenson, Solicitors appeared for the Applicant. His colleague Mrs Gordon was also in attendance. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow her plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence. The case was heard together with a case for eviction under case reference number FTS/HPC/EV/24/2245.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 14 April 2020 and the rent statement showing arrears of £3600 to 20 April 2024. The Tribunal considered these documents.
8. Mr Edment submitted arrears had increased to £5850 with the monthly rent being £450 and the last payment to account being made in September 2023. The Tribunal referred Mr Edment to the rent statement lodged and pointed out the last payment of rent appeared to be of £450 on 20 February 2024. When questioned by the Tribunal regarding how rent had been paid he stated he was not aware the Respondent was on benefits. Mr Edment stated the Applicant had repeatedly sent letters to the Respondent and had attended the Property about the arrears but had now given up as she realised there was no real prospect of recovering the rent. The Tribunal queried whether he was aware of any change in circumstances which may have accounted for the rent not being paid. Mr Edment advised he was not aware of any change of circumstances but that as the Respondent did not engage with the Applicant it was impossible to say.

Reasons for Decision

9. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent statement. Further the Tribunal considered the submissions made by Mr Edment.

10. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicant had produced evidence of persistent non-payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Edment's submissions that an order for payment in favour of the Applicant be granted. The decision of the Tribunal was unanimous.

Decision

11. The Tribunal granted an order for payment of £3600 in favour of the Applicant. The decision of the Tribunal was unanimous.

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.

Shirley Evans

15 November 2024

Legal Member

Date