

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/0171

Re: Property at 91 Lewis Drive, Wishaw, ML2 8XT (“the Property”)

Parties:

TCIB LLP trading as Newkeylets, 119 Main Street, Wishaw, ML2 7AU (“the Applicant”)

Ms Sharon Ferguson, 44 McKenna Drive, Airdrie, ML6 0JE (“the Respondent”)

Tribunal Member:

Nicola Irvine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent in the sum of £505.76.

Background

The Applicant submitted an application seeking an order for payment in the sum of £505.76. That sum related to arrears of rent in respect of a tenancy of the property at 91 Lewis Drive, Wishaw, ML2 8XT. The Tribunal intimated the application to the parties by letter of 14th February 2019 and advised them of the date, time and place of today’s case management discussion. In that letter, the parties were also told that they required to attend the hearing and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 4th March 2019. The Tribunal received an email from the Respondent on 6th March 2019. Reference is made to that email for its terms.

The Case Management Discussion

The Applicant was represented by Mr. A. Smith, who is a partner in TCIB LLP. In her email, the Respondent advised that she was unable to attend the case management discussion but she did not seek an adjournment. The case management discussion therefore proceeded in the absence of the Respondent. Mr. Smith advised the Tribunal that there has been no contact with the Respondent since the application was made and sum sought remains unpaid. The email from the Respondent indicated that she advised the Applicant "months before" that she could no longer guarantee payments due by Mathew Ferguson. It is not clear when the Respondent apparently told the Applicants of this, but from the terms of the email, the Respondent does not appear to dispute that at one time she did in fact provide that guarantee. The Applicant sought an order for payment in the sum of £505.76.

Findings in Fact

1. The Applicant entered into a tenancy agreement with Mathew Ferguson and Dale Houston in respect of the Property. The Tenancy Agreement is dated 4th March and 4th April 2018.
2. The rent payable was £250 per calendar month.
3. In terms of clause 36 of the Tenancy Agreement, the Respondent guaranteed payment of rent and any other charges due by the tenants to the Applicant.
4. Rent arrears amounted to £505.76.
5. The Applicant is entitled to the Order sought for payment in the sum of £505.76.

Reason for Decision

The Applicant has produced a rent statement which shows that the rent arrears amounted to £505.76. The Respondent appears to have signed the tenancy agreement, guaranteeing payment of rent and other charges. Having signed that guarantee, the Respondent is not entitled to rescind it. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Tribunal was satisfied that rent arrears were due by the tenant and that sum having been unpaid, the Respondent is liable to pay it, in terms of the tenancy agreement. The Tribunal therefore granted the order for payment.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Nicola Irvine

Legal Member/Chair

8th March 2019

Date