



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/20/0256

Re: Property at Flat 1/2, 39 Ferguslie Walk, Tannahill Court, Paisley, PA1 2RQ (“the Property”)

Parties:

Mr Victor Marshall, c/o Ritehome, 350 Glasgow Harbour Terraces, Glasgow, G11 6EG (“the Applicant”)

Mr Robert Hamilton, Ms Courtney Hamilton, 151A Ferguslie Park Avenue, Paisley, PA3 1AR; 151A Ferguslie Park Avenue, Paisley, PA3 1AR (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondents)

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the respondents to pay the sum of one thousand one hundred and eighty five pounds and nine pence (£1185.09) to the applicant, be granted.**
- 2. This is a case management discussion ‘CMD’ in connection with an application, ostensibly in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’, to recover rent arrears for the property at Flat 1/2 39 Ferguslie Walk Tannahill Court Paisley PA1 2RQ. The CMD proceeded by conference call.**
- 3. The applicant’s representative Mr Nixon attended by conference call. The respondents did not attend and were not represented. The tribunal had sight of the sheriff officer’s execution of service of the application and CMD details on the**

respondents on 18 February 2020. The tribunal was satisfied that the respondents had received appropriate notice in terms of rule 24. The tribunal proceeded with the CMD in terms of rule 29.

Preliminary matter

4. The tribunal noted that the application was based on a short assured tenancy agreement which was entered into in July 2016. The application should therefore be in terms of rule 70 of the rules and s16 of the Housing (Scotland) Act 2014. The applicant's representative sought to amend the application to rule 70. The application form and supporting papers are the same for a rule 111 and rule 70 application and the tribunal did not consider that there was any prejudice to the respondents. In accordance with the overriding objective the tribunal allowed the amendment.

Discussion

5. The tribunal had before it the following copy documents:
 - Application dated 24 January 2020.
 - Tenancy agreement dated 1 July 2016.
 - Guarantee dated 6 June 2016.
 - Rent statement with arrears as at 1 January 2020.
 - Rent statement with arrears as at 1 February 2020.
6. Mr Nixon explained the rent statement. The second named respondent was entitled to housing benefit for the duration of the tenancy until July 2019. Rent arrears began to accrue in November 2019. As at 1 February 2020 the arrears stood at £1185.09. The rent remains outstanding and Ms Hamilton left the property on 2 March 2020.

Findings in fact and law

7.
 - (a) The applicant is the owner of the property.
 - (b) The second respondent entered into a tenancy agreement on 1 July 2016 for let of the property for the initial period of 6 months and month to month thereafter.

- (c) The agreed monthly rent was £400.
- (d) The first respondent executed a guarantee for the rental payments in the event of the second respondent's default of the rental payments. The guarantee was executed in anticipation of the tenancy agreement being signed, on 6 June 2016.
- (e) Rent arrears began to accrue in November 2019.
- (f) The arrears as at 2 February 2020 are £1185.09.
- (g) Both respondents refuse or delay to make payment.

Reasons

- 8. This is an undefended application to recover rent arrears for the property. The tribunal was satisfied that it had sufficient information before it today to make a decision and the procedure had been fair. The tribunal accordingly granted an order for payment in the sum of £1185.09.

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.

Mrs Lesley A Ward

17 March 2020

Lesley A Ward Legal Member

Date