



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/19/1015

Re: Property at 36 Deveron Terrace, Dundee, DD2 4AJ (“the Property”)

Parties:

Mr Michael Short, 3 Rattray Street, Dundee, DD1 1NA (“the Applicant”)

Mr Edward Paton, 36 Deveron Terrace, Dundee, DD2 4AJ (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £2,800 representing arrears of rent up until 21st March 2019 be made.

- **Background**

This was the second Case Management Discussion (CMD) in an application for an order for payment of rent arrears arising out of the rental by the Respondent of the Property from the Applicant. At the first CMD Miss Beats of the Applicant’s representatives Bruce Short Solicitors attended no one was present for the Respondent. As the case was conjoined with HPC/EV/19/1014 and an adjournment was granted the Applicant requested that this case also be adjourned so the two cases could be heard together.

The documents lodged with the application are:-

1. Copy of the written tenancy (which is erroneously based on a style of a Short Assured Tenancy) dated 10th September 2018 which has a commencement date of 10th September 2018 and refers to a monthly rent of £400.

2. Copy of a formal letter dated 21st March 2019 from Lamonts solicitors to Lamonts solicitors of Dundee offering on behalf of a purchaser Ms Robbins, to purchase the property for the price of £38,000 from the Seller whose name is not detailed on the letter.
3. Copy Notice of Leave dated 24th January 2019 indicating the earliest date for applying for an eviction order is 25th February 2019 and citing the ground that your landlord intends to sell the property.
4. Certificate of posting dated 24th January 2019
5. S11 notice to Dundee City council
6. AT5 form dated 10th September 2018
7. Rent statement and letter to the Respondent dated 21st March showing arrears for £1600.

- **The Case Management Discussion**

At the CMD today Ms Carolyn Leckie from the Applicant's solicitors appeared for the Applicant. The Respondent did not appear and has made no written representations. The papers had been served on the Respondent by Sheriff Officer by letter box service on 24th June 2019. Ms Leckie advised that there have been no further sums paid by the Respondent and indeed no communications from him. She submitted a new rent statement which showed arrears are now at £4400 and requested to amend the application. However as the Respondent has not had 14 days' notice of this proposed amendment to increase the sum claimed as required in terms of Rule 14A of the Tribunal's rules, the Convener explained Ms Leckie could seek an order today for £2800 only or continue to the case to another CMD or hearing to allow intimation to be made of the revised sum.

Ms Leckie asked for a short adjournment to speak to her client and on returning agreed that her client was today seeking an order for the sums duly intimated with the original application namely £2800.

- **Findings in Fact**

1. The Respondent entered into a tenancy for the Property by way of written tenancy dated 10th September 2018.
2. This is a private rented tenancy in terms of the Private Housing Tenancies Act 2016 despite being called a short assured tenancy as it meets the terms of S1 of the 2016 Act.
3. The rent due per month is £400
4. The Respondent is the tenant and has paid the sum of £400 as a deposit and £400 for the first month's rent on 10th September 2018.
5. The Respondent had not paid any further sums since that date.
6. The Sum outstanding as at 21st March 2019 was £2,800 and is referred to in the papers lodged with this application.

- **Reasons for Decision**

The sums are due and outstanding for rent lawfully due and so an order for payment was made. Ms Leckie advised additional sums are outstanding but as future sums are still accruing as the Respondent is still in the property, she advised her client may if and when appropriate, raise a separate application for further sums due if any.

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.

Jan Todd

Legal Member/Chair

18 July 2019

Date