



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising from a tenancy defined in Section 1 of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/20/1017

Re: Property at 15A Aurs Crescent, Barrhead, Glasgow, G78 2LT (“the Property”)

Parties:

Mr Elliot Forbes, Fingalton Mill, Fingalton Road, Glasgow, G77 6PH (“the Applicant”)

Mabeen Hussein, 15A Aurs Crescent, Barrhead, Glasgow, G78 2LT (“the Respondent”)

Tribunal Members:

Susan Christie (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 in the sum of £3960 be made against the Respondent.

Background

1. The application was received by the Tribunal on 20 March 2020.
2. The Notice of Acceptance is dated 29 May 2020.
3. The application type is stated as being made under Paragraph 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (‘the Rules’) and requests an Order for Payment.
4. On 2 July 2020 Sheriff Officers reported to the Tribunal that they were unable to serve the papers on the Respondent as the Officer ‘found the property empty and unoccupied.’ Enquiries were made with surrounding neighbours who claimed the property was abandoned approximately 4 months previously and believed the Respondent had moved to England.
5. Consequently, service was effected in line with Paragraph 6A of the Rules. A Certificate of Service signed by the Clerk which confirmed Service by Advertisement on the FTT website from 3 July 2020 until 5 August 2020.

6. Unfortunately, this information was not relayed to the Representative of the Applicant.
7. The application by this point proceeded on the basis that the Respondent's address was unknown.
8. The Applicant's Representative lodged an e mail on 27 July 2020 requesting to amend the sum sought in this application CV/1017 to £3960 and had produced a copy of a letter of 22 July 2020 which they had sent to the Respondent by First Class post and Recorded Delivery post on that date stating this. The letter also detailed the date and time of the Case Management Discussion (CMD) assigned and suggested the Respondent obtained independent legal advice to either take part or be represented at the CMD.

The Case Management Discussion (CMD) -5 August 2020

9. The Applicant was represented by Ms Morrison. The Respondent did not participate.
10. It became clear that the Applicant's Representative had not been aware of the mode of service. She explained that there had been an exchange of text messages after 2 July 2020 in which it appeared that the Respondent had, on 25 May 2020 and on 13 July 2020, told the landlord that she was still in the Property.
11. Further, it transpired that the letter that had been sent by the Applicant's Representative dated 22 July 2020 had purportedly been signed for by the Respondent on 25 July 2020 at 11.40 a.m. by the Track and Trace showing a signature and typed in the word 'Hussain'.
12. A copy of the text exchanges and the Track and Trace documentation was produced to the Clerk.
13. The additional documents produced are included in the Case records.
14. Paragraph 6A of the Rules, sub section (3) states- *If the party's address becomes known after service by advertisement, the First-tier Tribunal must order—*
 - (a) *any application before the First-tier Tribunal to be amended to include the party's address,*
 - (b) *any document required by legislation to be served, by the person who made the request under rule 5(5), on the person who should receive notification, and*
 - (c) *any application accepted by the First-tier Tribunal to be served on that party or that party's representative.*
 - (4) *Where paragraph (3) applies, the First-tier Tribunal may direct a review of the timescales for further procedure in relation to the application, if it thinks fit in the interests of justice.*
15. Accordingly, the Case Management Discussion was postponed for fresh service to be effected by Sheriff Officers.
16. On 3 September 2020, Sheriff Officers again attended at the Property and were unable to effect service. Enquiries revealed that the Respondent had vacated the Property.
17. Service by Advertisement was again effected, this time on 7 October 2020.

Second Case Management Discussion -11 November 2020

18. Ms Morrison participated. She advised me that the Property had been recovered on 2 September 2020.
19. I was provided with a Certificate of Service by Advertisement which I was satisfied with.
20. The Private Residential Tenancy signed on 11 October 2019 provided for rent to be paid in the sum of £440 per calendar month in advance on 12th of the month.
21. Rent arrears had accrued from 12 October 2019 as no payments had been made. The total sum sought in this application is £3960, which represents unpaid rent up to 12 July 2020. This is reflected in the amendment of the application made in July 2020.
22. The total arrears amount to £4263 at the recovery date. An Order is sought for the sum stated in the application of £3960.

Findings in Fact

- I. The Applicant entered a Private Residential Tenancy with the Respondent over the Property on 11 October 2020.
- II. The rent was due to be paid in the sum of £440 per calendar month in advance on 12th of the month.
- III. The unpaid rent due between 12 October 2019 and 12 July 2020 is £3960.
- IV. The Applicant recovered the Property on 2 September 2020.
- V. The Application for payment of £3960 from the Respondent is granted.

Reasons for Decision & Decision

I was satisfied that a decision could be made today on the undisputed facts as there was enough material before me to do so.

I granted an 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.

Susan Christie

Legal Member/Chair

11 November 2020
Date

