

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/19/1017

Re : Property at 6 Bryans Avenue, Newtongrange, Midlothian EH22 4RU (“the Property”)

The Parties:-

My Ziggy Limited, 2a West Coates, Edinburgh EH12 5JQ (“the Applicant”)

represented by ELP Arbuthnott McClanachan, solicitors, 98 Ferry Road,
Edinburgh EH6 4PG

Samantha Needle residing or formerly residing at 6 Bryans Avenue, Newtongrange, Midlothian EH22 4RU (“the Respondent”)

The Tribunal comprised:-

Mr David Bartos - Legal member and Chairperson

DECISION

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent shall pay to the Applicant the sum of FIVE THOUSAND TWO HUNDRED AND SEVENTY-FIVE POUNDS (£ 5275.00) STERLING.

Background

1. In October 2017 the parties entered into a tenancy of the Property with the Applicant as landlord and the Respondent as tenant. The Applicant seeks an order for payment of rent by the Respondent.

(d) The total amount of rent due and unpaid up to 31 July 2019 is £ 5275 as per the Applicant's statement of rent for the Property from January 2018 to July 2019.

Submission

6. At the CMD the Applicant's representative sought amendment of the sum sought in the application to £5275 and the substitution of a new paper apart into part 5(b) of the application. The request to amend was unopposed. The representative confirmed that no further payments had been made following the original e-mailed request to amend. The Tribunal took the view that it was in the interests of justice that the application reflect the current rent situation as far as possible. It granted the request and allowed the application to be amended as sought.
7. The representative submitted that no defence had been stated. The Respondent had never disputed that the rent was due. It was simply that she had been unable to pay it. He requested that the Tribunal grant the order sought without continuation to a hearing.

Reasons

8. The Tribunal considered the application, the oral submission and the documentary evidence submitted for the Applicant. It found that it was able to make sufficient findings in fact and that to do so was not contrary to the interests of the parties. It was therefore able to decide the case at the CMD without a hearing. It could see no benefit to be gained from a hearing which would cause delay.
9. The Tribunal was satisfied that the rent statement was credible and reliable. No doubt was cast on that or the other documentary evidence. On that basis the Tribunal made the findings in fact set out above.
10. The Tribunal accepted that there had been a breach by the Respondent of her duty to pay the rent under the tenancy and that the amount sought remained unpaid. In the circumstances the Tribunal awarded the Applicant the sum of rent sought by it.

Outcome

11. The First-tier Tribunal for Scotland (Housing and Property Chamber) orders the Respondent to pay to the Applicant the sum of Five Thousand Two Hundred and Seventy-five Pounds (£5275.00) Sterling.

Right of Appeal

12. In terms of section 46 of the Tribunals (Scotland) Act 2014 a party aggrieved

2. On 1 August 2019 the Tribunal had a case management discussion ("CMD") at 14.00 hrs at George House, 126 George Street, Edinburgh EH2 4HH. It was attended by the Applicant's solicitor Ian Wells of ELP Arbuthnott McClanachan. There was no appearance by or on behalf of the Respondent. The Tribunal noted that Notice of the CMD at to-day's date and time had been given to the Respondent in a letter from the Tribunal dated 11 July 2019 which had been served on her by sheriff officer on 12 July 2019 as per the officer's certificate of citation dated 12 July 2019. Immediately before the commencement of the CMD the Tribunal confirmed that no contact with the Tribunal Office had been made by the Respondent. The Applicant's representative indicated that he was unaware of any contact having been made by the Respondent since the service by sheriff officers. He wished to continue with the CMD. The Tribunal proceeded with the CMD. It took the view that in all the circumstances it was not unfair to the Respondent to proceed with the CMD and that it would be unfair to the Applicant for there to be delay.
3. At the outset the application sought an order for payment of £ 3150 being alleged arrears of rent as at 21 March 2019. By e-mail to the Tribunal dated 5 July 2019 the Applicant's representative requested amendment of parts 5(b) and (c) of the application form to increase the sum sought to £ 5275 being alleged arrears of rent as at 2 July 2019. The e-mail was accompanied by a fresh rent statement for the period from January 2018 to July 2019. A letter to the Respondent from the Applicant's representative dated 15 July 2019 notifying her of the proposed amendment and enclosing the revised rent statement was served on the Respondent by sheriff officer on 16 July 2019.
4. The Respondent did not make any written representations to the Tribunal opposing the application or the amendment to the application or taking issue with the documents lodged by the Applicant's representative.

5. *Facts Not in Dispute Between the Parties*

(a) The Applicant is the owner of the Property. On or about 31 October 2017 the Applicant granted a tenancy of the Property to the Respondent. The tenancy commenced on 31 October 2018 and was under the Housing (Scotland) Act 1988.

(b) The tenancy provided for the payment by the Respondent to the Applicant of rent of £ 525 per month payable in advance on the 1st day of each month. The tenancy has continued in force.

(c) The Respondent has paid none or only part of the full rent due from January 2018 to July 2019 inclusive.

by the decision of the Tribunal may seek to 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.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

David Bartos

Legal Member

1 August 2019 _____
Date