



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/1072

Re: Property at Flat 4, 6a Oakshaw Street East, Paisley, PA1 2DD (“the Property”)

Parties:

Mr Timothy Cupples, Unit 2, 68 - 74 Queen Elizabeth Avenue, Glasgow, G52 4BJ (“the Applicant”)

Mr Connor James Galloway, Flat 4, 6a Oakshaw Street East, Paisley, PA1 2DD (“the Respondent”)

Tribunal Member:

David Preston (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment by the respondent to the applicant of the sum of FOUR THOUSAND FOUR HUNDRED AND TWENTY POUNDS (£4220) should be made.

Background

1. This was a Case Management Discussion (CMD) in respect of an application for payment of the sum of £4220 by way of arrears of rent due as at 23 April 2021.
2. By Decision dated 17 May 2021 a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to a CMD.
3. On 4 June 2021 a Letter of Intimation together with the application and supporting documentation, specifically drawing the respondent’s attention to the time and date of the CMD were served on the respondent in terms of Sheriff Officer Certificate of Intimation of that date.
4. On 7 July 2021 at 1130 a CMD was convened by telephone in accordance with the provisions dealing with business during the COVID-19 pandemic. Neither party had attended by 1145. The tribunal proceeded to determine the application by dismissing same in view of the non-attendance of wither party at that time.

5. Prior to the Decision to dismiss the application being intimated to the respondent the tribunal was advised that the applicant's solicitor had telephoned to say that he had been unable to connect with the conference call due to difficulties with the phone signal. In view of the unusual circumstances surrounding CMD's being conducted by telephone as a result of the Covid 19 restrictions, the tribunal determined that, in terms of the overriding objective as set out in Rule 2 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, this Note of CMD be issued to the parties and that the CMD be continued to a further CMD on 10 August 2021 at 10 AM.
6. On 9 July 2021 the Note and Intimation of continued CMD were sent to the respondent by Recorded Delivery Mail but were returned marked "gone away". Accordingly, notification of the adjourned CMD was intimated by advertisement conform to Certificate of Service by Advertisement, a copy of which was before the tribunal.

CMD

7. On 10 August 2021 the adjourned CMD was convened. Mr Marcus Whyte, Solicitor attended on behalf of the applicant. There was no attendance by or on behalf of the respondent by 1010.
8. The papers before the tribunal comprised: Private Residential Tenancy Agreement dated 23 April 2020; Rent Statement for the period to 23 April 2021 showing arrears to that date of £4220.
9. Mr Whyte advised that he had neither received any communication from the respondent in relation to the rent arrears nor payment towards them. He advised that the tenancy had been terminated on the basis of antisocial behaviour on the part of the respondent. He requested an Order for the arrears as set out in the application.

Findings in Fact

10. The parties entered into a Private Residential Tenancy Agreement that commenced on 23 April 2020 at a rent of £550 per month.
11. The tenancy had been terminated as a result of antisocial behaviour on the part of the respondent.
12. Payments of rent in full were made until June 2020 and thereafter sporadic payments were made until December 2020. Thereafter no rent was paid for the months of January to March 2021 resulting in arrears of rent as sought.

Reasons for Decision

13. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
14. The tribunal accepted the information in the file and as provided by Mr Whyte and determined to issue 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.

David Preston

10 August 2021

Legal Member

Date