



Decision with Statement of Reasons 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/20/1771

Re: Property at 8G Fleming Road, Cumbernauld, Glasgow, G67 1LH (“the Property”)

Parties:

Mr Simon Patience, Mrs Jacqueline Patience, 6 Kirkwood Avenue, Stepps, Glasgow, G33 6GD (“the Applicant”)

Mr Adam Kirk, 8G Fleming Road, Cumbernauld, Glasgow, G67 1LH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- **Background**

This Application called as a Case Management Discussion by conference call at 11:30 am on 15 December 2020. A previous Case Management Discussion had called on 14 October 2020 and was continued to today on account of the Respondent not being present at that Case Management Discussion and there being reason to suspect it was because he was receiving treatment in a psychiatric hospital.

There was no appearance by or on behalf of the Respondent on today's conference call.

The Letter intimating today's Case Management Discussion was sent to the Respondent by Recorded Delivery Post and was signed for at the Property on 11 November 2020. The Applicant, Mr Patience who was again appearing also on behalf of his wife, Jacqueline Patience, informed the Tribunal that the Respondent had actually left the Property with his possessions on 4 November 2020 and it was a cleaner who had signed for the recorded delivery.

The Tribunal also noted however that the Case Management Notes and Directions had been emailed to the Respondent on 5 November 2020. The Respondent had previously communicated with the Tribunal using this email.

The Tribunal noted that the Directions imposed upon the Respondent had not been complied with. These Directions had been made with a view to ensuring that the Tribunal could proceed today efficiently and without unreasonable delay or confusion as to the Respondent's status. Those Directions had been adequately communicated to the Respondent.

The Respondent had failed to set out the basis of any proposed defence or explain his situation such as might allow the Tribunal to reasonably consider whether there was a justification for the Respondent's non-participation.

Having made these Directions and the Directions having not been adhered to, the Tribunal felt it fair and in the interests of justice to proceed with the Case Management Discussion without the participation of the Respondent.

- Case Management Discussion

The Tribunal noted the Applicant seeks a Payment Order to be made in respect of rent arrears. The Applicant today sought a Payment Order in the amended sum of £4,240.00 to be made. The Applicant had emailed in an updated rent schedule reflecting this amended sum on 5 November 2020 and this had also been emailed to the Respondent on this date.

Whilst the Tribunal noted that the email accompanying the updated rent schedule did not explicitly refer to the intention to seek an amended sum, the Tribunal considered that it did provide the Respondent with sufficient fair notice of the amended sum said to be due and so accordingly the Tribunal allowed this amended sum to be claimed.

Having heard from Mr Patience the Tribunal made the following findings in fact.

- Findings in Fact

- I. *The parties entered into a Private Residential Tenancy in respect of the Property.*
- II. *The Applicants were the landlords and the tenant was the Respondent.*
- III. *The monthly rent due was £575.00 per month.*
- IV. *The tenancy commenced on 18 October 2019*
- V. *The Respondent vacated the Property on 4 November 2020.*
- VI. *At today's date the sum of £4,240.00 is validly due by the Respondent to the Applicant as unpaid rent.*

- Reasons for Decision

Having made the above findings in fact the Tribunal granted the Application and made a Payment Order in the amended sum of £4,240.00

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.

Andrew McLaughlin

15thDecember2020

Legal Member/Chair

Date

