



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/19/2044

Re: Property at 28 Dochart Terrace, Dundee, DD2 4EY (“the Property”)

Parties:

Atrix Limited, Resolis, 6 Gladgate, Cupar, KY14 7AY (“the Applicant”)

Mr Philip Roncone, 28 Dochart Terrace, Dundee, DD2 4EY (“the Respondent”)

Tribunal Members:

Ewan Miller (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 ONE HUNDRED AND SIXTY FIVE POUNDS AND THIRTY EIGHT PENCE (£165.38) ONLY together with interest at 4% above the base rate from time of Bank of Scotland plc would be granted in favour of the Applicant against the Respondent.

Background

The Applicant was the owner of the Property. The Applicant alleged that he rented the Property to the Respondent. The Applicant sought to terminate the tenancy as a result of arrears of rental accruing of in excess of £1500. The Applicant also applied to the Tribunal seeking an order for payment for the outstanding sums.

The Tribunal had before it the following documentation:-

- A copy of the Applicant’s application to the Tribunal dated 28 June 2019;
- A copy of the Short Assured Tenancy between the Applicant and the Respondent dated 15 June 2015;
- A copy of the AT5;
- A copy of the Notice to Quit and s33 letter both dated 25 March 2019;

- Sheriff Officer's certificate of service dated 26 March 2019;
- S11 Homeless Notice;
- A Land Certificate confirming the Applicant as owner of the Property
- A rental arrears statement showing all payments due and received by the Applicant

Case Management Discussion ("CMD")

The Tribunal held a CMD at Dundee Carer's Centre on 14 October 2019 at 2pm. The Applicant was not present but was represented by Mr Taylor of Lindsays, Solicitors, Seabraes, Dundee. The Respondent was neither present nor represented.

The Tribunal noted that the papers had been served on the Respondent confirming the date and place of the CMD. The Respondent had been advised that a decision could be made in his absence at a CMD. On that basis, the Tribunal was content that it was appropriate to proceed and make a decision in the absence of the Respondent.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Applicant had let the Property to the Respondent under a Short Assured Tenancy dated 15 June 2015;
- The initial lease was until 27 December 2015 and had been continuing on a month to month basis under tacit relocation since then;
- At the date of application to the Tribunal £1,625.90 was due to the Applicant by the Respondent;
- At the date of the CMD, £165.38 was due in rental arrears

Reasons for the Decision

The Tribunal had noted a rental arrears statement with the Applicant's application that rent was in arrears to the amount of £1,625.90. Since the application to the Tribunal, some payments had been made by Universal Credit and, at the date of the CMD, £165.38 was outstanding. The lease had been terminated by the Applicant although the Respondent had failed to remove.

The Tribunal had no reason to doubt the terms of the lease before it, the rental statement provided by the Applicant or the up to date rental statement received from Mr Taylor at the CMD. There was no evidence from the Respondent to rebut the Applicant's evidence of the sums due and the Tribunal had no reason to doubt the veracity of it. On that basis, the Tribunal was content it was obliged to grant an order for payment in the sum of £165.38.

Mr Taylor sought interest at 8%. However, the Tribunal noted the lease provided for 4% above Bank of Scotland base rate and was content that was the appropriate rate to grant as the contracted amount.

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.

Ewan Miller

Legal Member/Chair

14/10/2019

Date