



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/CV/20/2182

Re: Property at The Gate Lodge, Symington House, Biggar, ML12 6LW

Parties:

James Dawnay and Mrs Sarah Dawnay, residing together at Symington House, Biggar, South Lanarkshire, ML12 6LW (“the Applicants”)

Steven Barron, residing at 110 Drumlanrig Street, Thornhill, Dumfriesshire, DG3 5LU (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision (in absence of the Applicants)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be made and rejects the respondent’s application for a time to pay direction.

Background

The Applicants sought an order for payment of rental arrears totalling £6,750. The Applicants had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement, a calculation of rent arrears, and an exchange of correspondence between the parties. A copy title sheet was lodged with the Tribunal which showed that the applicants are joint heritable proprietors of the Property.

Case Management Discussion

A Case Management Discussion took place before the Tribunal by telephone conference at 2pm on 5 January 2021. The respondent was present. Neither of the applicants participated in the hearing. None of the parties was represented.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicants and the Respondent entered into a Private Residential Tenancy Agreement for the Property dated 15 August 2018.
2. The period of the Lease was from 15 August 2018. On 10 June 2019 the respondent vacated the property and terminated the tenancy agreement.
3. The rent in terms of the Tenancy Agreement was £675 per month.
4. In December 2019 the applicants discovered that they had not received any payments of rental from the respondent. The respondent initially said that he had made payments to the applicants' bank account. The applicants bank with C. Hoare & Co. C. Hoare & Co. (sometimes known as "Hoares") is a British private bank. It has two branches in London, and, in March 2019, it opened a branch in Cambridge. C. Hoare & Co do not have a branch in Biggar.
5. The respondent produces his bank statement which shows that each month throughout the duration of the tenancy, payments of £675.00 were made from his bank account to "Hoares Bank Biggar".
6. The respondent accepts that no payments of rental were received by the applicants and that he owes the applicants £6,750. The respondent seeks time to pay by instalments of £250.00 per month.
7. The respondent is a company director with a net income of £42,000 per annum. He has regular monthly outlays for rental, food and fuel as well as financial commitments to his ex-wife and children.
8. If a time to pay direction is made, it will take 27 months to clear the amount admittedly due to the applicants. The respondent has known about the sums he is due to the applicants since December 2019 but has not made any payments to account.
9. The instalments offered by the respondent are insufficient. Payment at £250 per month will take too long. The applicants seek payment of sums which have rested owing since June 2019. The application for time to pay is rejected.
10. All parties agree that the respondent owes the applicants £6,750. The respondent has the means to pay that sum. There is no challenge to the substance of the application. The applicants are entitled to a payment order.
11. Notice of the date of this hearing was served on the Respondent by sheriff officers on 23 November 2020.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £6,750. Rent was lawfully due in terms of clause 8 of the Tenancy Agreement at the rate of £675.00 per month. Between 15 August 2018 and 10 June 2019 the applicants did not receive any rental from the Respondent. There are arrears of rental totalling £6,750.

Decision

For the foregoing reasons, the Tribunal determined to make 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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

P Doyle

Legal Member

Date 5 January 2021