



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/19/2357

Re: Property at 22 Colonsay Terrace, Dundee, Angus, DD4 9SZ (“the Property”)

Parties:

Mr Darren Archibald, 1 Well Road, Lunanhead, Forfar, DD8 3NY (“the Applicant”)

**Miss Shelley Miller, UNKNOWN, UNKNOWN ;
Miss Marie Mitchell, 8f Fintryside, Dundee, DD4 9JG (“the Respondents”)**

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £2032.43 from the Respondents.

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £2032.43 in terms of s16 of the Housing (Scotland) Act 2014.
2. The Tribunal had before it the following documents:
 - a. Application dated 25th July 2019 and received by the Housing and Property Chamber on 26th July 2019.

- b. Tenancy agreement between the parties signed 31st March 2017 with the commence 31st March 2018 and continued thereafter by tacit relocation.
 - c. Rent statement for the period 31st March 2017 to 21st August 2018.
 - d. Form AT5 signed by the parties on 31st March 2017.
3. The Tribunal also had before it a copy of the title deeds numbered ANG13560.
4. A Notice of Acceptance of Application was signed on 9th August 2019.
5. On 14th August 2019, all parties were written to with the date for the Case Management Discussion ("CMD") of 24th September 2019 at 11.30 am at The Carers Centre, Seagate House, Seagate, Dundee. The letter also requested all written representations be submitted by 2nd August 2019.
6. On 15th August 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the Second Named Respondent, Miss Marie Mitchell, by letterbox service and first class post. This was evidenced by Certificate of Citation dated 15th August 2019. The sheriff officers were not able to effect service upon the First Named Respondent, Miss Shelley Miller. Their investigations had lead them to conclude that she had left the Property. As a consequence the CMD set for 24th September 2019 was postponed to allow service by advertisement to take effect upon the First Named Respondent, Miss Miller.
7. Service by advertisement upon the First Named Respondent was executed on 11th September 2019. The Second Named Respondent was also written on that date with submissions to be lodged by 2nd October. It was noted in the advertisement and letter that the CMD was set for 21st October 2019 at 10am at Caledonia House, Greenmarket, Dundee.

Case Management Discussion

8. A CMD was held on 21st October 2019 at 10am at Caledonia House, Greenmarket, Dundee. The Applicant was represented by Miss Kirsty Morrison, solicitor, TC Young solicitors. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing. Miss Morrison provided the Tribunal with a copy of the signed AT5, one for each Respondent. Miss Morrison informed the Tribunal that the Second Named Respondent last paid a £325 on 2nd February 2018. The deposit has been allocated to the Applicant and deducted form the amount due. There has been no offer of payment for the outstanding sums due. To the Applicant's knowledge, there were no outstanding Housing Benefit or Universal Credit Housing Element issues.

Findings in Fact

9. The parties entered into a Short Assured Tenancy on 31st March 2017 with the commencement of the tenancy on 31st March 2017 for a 12 months period until 31st March 2018 and on a month to month basis thereafter. The lease was signed on 31st March 2018. An AT5 was signed by both parties on the same date as the lease. The rent payments of £625 are due by the last working day of each month.
10. The Housing and Property Chamber received an Application on 26th July 2019.
11. The Respondents have persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £2032.43, beyond that which was sought in the application.
12. The tenancy ended on 21st June 2018.
13. There are no outstanding Housing Benefit issues.
14. The arrears due to the Applicant amounts to £2032.43.

Reasons for Decision

15. The Respondents have failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 31st March 2017 to 21st August 2018 in which payments have been missed to amount to £2032.43 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondents had persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £2032.43 against the Respondents.

Decision

16. The Applicant is entitled to for an order of payment of £2032.43 by the Respondents. The Order was granted against the Respondents.

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.

Gabrielle Miller

Legal Member/Chair

21 Oct 19

Date