



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Rule 70 of the First-tier Tribunal for Scotland Housing and Property chamber (Procedure) Regulations 2017

Chamber Ref: FTS/HPC/CV/18/2878

Re: Property at 8/10 West Silvermills Lane, Edinburgh, EH3 5RD (“the Property”)

Parties:

Mr Philip Feakin, c/o Breamore Sales and Lettings, Orchard Brae House, Level 2 30 Queensferry Road, Edinburgh, EH4 2HS (“the Applicant”)

Miss Jodenehellena Hernandez, 8/10 West Silvermills Lane, Edinburgh, EH3 5RD (“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

This matter called for a Case Management Discussion at 11:30 am on 8 January 2019 in George House, 126 George Street, Edinburgh. The Applicant was represented by Mr Clair, Solicitor. There was no appearance by or on behalf of the Respondent.

Mr Clair referred to a tenancy agreement between the parties and a rent statement narrating payments due and received which calculated a balance of rent arrears said to be due of £2,918.00.

The Tribunal noted that the monthly rent said to be due in that rent statement was £650.00 and then £700.00. The monthly rent as per the tenancy agreement was £580.00 and there appeared to be no mechanism in the tenancy for having that rent increased. The Applicant produced an email purporting to intimate to the Respondent on 12 August 2015 that the monthly rent was to be increased

to £700.00. Considering that the Respondent had not responded to or defended the Application, the Tribunal decided to accept the position advanced in the Application that the rent had been increased during the tenancy, presumably with the acquiescence of the Respondent. It follows that the outstanding monthly payments, which were in arrears, should be recoverable in a Payment Order.

The Applicant also sought to recover a Late Payment Fee of £168.00. The Tribunal considered that there was no basis for this sum being contractually due and that it should not be recoverable.

The Tribunal therefore made a Payment Order against the Respondent in the sum of £2,750.00.

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.

A McLaughlin

Legal Member/Chair

8/1/19

Date

*Insert or Delete as required