



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/19/2979

Re: Property at 84 Duncan Drive, Elgin, Moray, IV30 4NH (“the Property”)

Parties:

Mr Assad Rasul, 19 Forteach Avenue, Elgin, Moray, IV30 1TF (“the Applicant”)

Mr Miguel Lima, Mrs Susana Cristina Moreira dos Santos Lima, 39 Cockmuir Place, Elgin, Moray, IV30 6YN (“the Respondents”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £3207.84.

Background

1. By application in terms of rule 70 of The First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) received on 26th September 2019, the Applicant sought an order for payment in respect of unpaid rent lawfully due by the Respondents to the Applicant. A copy of a short assured tenancy agreement between the parties was included with the application together with a rent statement showing arrears in the sum of £3207.84, and bank statements. The tenancy commenced on 4th July 2016 and ended in July 2019. The rent due was initially £650 per month, increasing to £750 in August 2017.
2. A Case Management Discussion (“CMD”) took place on 18th February 2020. The CMD was adjourned to a further CMD on 19th March 2020 to allow the Respondents’ representative to consider the papers. The Respondents were

directed to lodge any defence and documentation 14 days prior to the next CMD. No defence or documentation was received by the Tribunal.

3. By Order dated 19th March 2020, the CMD set down for that date was postponed to 28th May 2020, as part of the measures to manage the COVID-19 outbreak.
4. By Order dated 19th May 2020, the CMD set down for 28th May 2020 was postponed to 9th July 2020, as part of the measures to manage the COVID-19 outbreak.
5. By Order dated 9th July 2020, the CMD set down for that date was postponed to 10th July 2020, as part of the measures to manage the COVID-19 outbreak.
6. Parties were notified of the CMD to take place on 10th July 2020 by letter dated 10th June 2020.

Case Management Discussion

7. A CMD took place by telephone conference on 10th July 2020. The Applicant was in attendance. There was no attendance by the Respondents.
8. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondents had been given reasonable notice of the time and date of the postponed CMD, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondents upon the representations of the Applicant and the material before the Tribunal.
9. The Applicant moved the Tribunal to grant the order sought. The Applicant stated that he had not opposed the initial adjournment, and had been prepared to allow the Respondents further time and opportunity to state a defence in the interests of fairness. No such defence had been stated. It was his position that a considerable period of time had passed and that it would now be appropriate to grant the order sought in the sum of £3207.84.

Findings in Fact

10. Parties entered into a short assured tenancy agreement in respect of the Property, commencing on 4th July 2016 and ending in July 2019.
11. The rent due was initially £650 per month, increasing to £750 in August 2017. By entering into the tenancy agreement, the Respondents undertook to pay all rent lawfully due to the Applicant.
12. At the end of the tenancy, rent lawfully due in the sum of £3207.84 was outstanding.

13. The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

14. Rent lawfully due in the sum of £3207.84 has not been paid by the Respondents to the Applicant. The Applicant is entitled to recover rent lawfully due. The Respondents did not dispute that the sum was outstanding and no defence to the application was received by the Tribunal. In all the circumstances of the case, the Applicant is entitled to an order for payment.

Decision

15. An order for payment in the sum of £3207.84 is granted in favour of the Applicant.

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.

H. Forbes

Legal Member/Chair

**10th July
2020 Date**