



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/18/3021

Re: Property at 2 The Stables, Falkland Estate, Falkland, KY15 7AF (“the Property”)

Parties:

Falkland Stewardship Trust, The Stables, Falkland Estate, Falkland, Fife, KY15 7AF (“the Applicant”)

Mr John McComisky, 65 Burnside, Auctermuchty, KY14 7AJ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

This Application called for a Case Management Discussion at 10am on 14 January 2019 in Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy, KY1 1XT. The Applicant was represented by Ms Fiona Thomson, a Residential Property Manager. The Respondent had contacted the Tribunal venue shortly before the Hearing and left a message to be passed on indicating that he would not be attending the Hearing because he *“had a meeting with a social worker at 09:30”*.

The Tribunal considered that it would be contrary to the interests of justice to adjourn the Hearing on account of this development. The papers had been timeously served on the Respondent who had elected not to make any representations in respect of the Application. The message passed on was too vague and ambiguous to consider it as a reasonable basis for delaying the progress of the Application.

Ms Thomson referred to a comprehensive and easy to follow rent statement that appeared to show the Respondent as having rent arrears of £3,700.00.

The tenancy agreement itself was also produced. The Tribunal noted that the rent detailed in the tenancy was to be £490.00 but the rent statement was prepared on the basis of a monthly rent of £500.00. Ms Thomson informed the Tribunal that the rent had recently been increased. The tenancy agreement itself had a provision that allowed for the rent to be increased. It was also noted that some of the rent payments paid by the Respondent were for £500.00. It appeared fair to assume that the Respondent had, by his actions, agreed that the monthly rent was £500.00.

Accordingly the Tribunal made a Payment Order against the Respondent in the sum of £3,700.00.

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.

Andrew McLaughlin

Legal Member/Chair

Date

14/11/19