

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision 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/19/3756

Re: Property at 1 Windmill Road, Hamilton, ML3 6LX (“the Property”)

Parties:

Mr Omair Ahmed, c/o 213 Edinburgh House, East Kilbride, G74 1LJ (“the Applicant”)

Mr Leonard Francis Stanulis, Mrs Angela Stanulis, 6 Waulkglen Avenue, Glasgow, G53 7XH; 6 Waulkglen Avenue, Glasgow, G53 7XH (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application for a payment order dated 22nd November 2019 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant seeks payment of arrears in rental payments of £5,438.39 together with damages of £520.00.

The Applicant provided with his application copies of the short assured tenancy agreement, rent arrears statement, and invoice for replacement and cleaning of carpets.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondents have been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 23rd December 2019, and the Tribunal was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held on 24th January 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was represented by Mr Coyle, solicitor. The Respondents did not appear, nor were they represented. The Respondents have not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was invited by Mr Coyle to with reference to the application and papers to grant an order for payment of the sum of £5,958.39. He explained that the Respondents had left the Property on 7th February 2019, and had accumulated arrears of rent in the sum of £5,438.39 as shown on the rent arrears statement provided.

After recovering possession, the landlord's letting agent noted significant staining to carpets in the Property. Attempts to clean and remove those failed, and the Landlord required to pay £520.00 in terms of the invoice produced for replacements and fitting.

Statement of Reasons

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental and damages against a tenant (such as the Respondents) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the copy rent arrears statement, and Mr Coyle's submissions, and was satisfied that this disclosed an outstanding balance due by the Respondents to the Applicant in respect of rent arrears to 7th February 2019 of £5,438.39.

The Respondents are liable for the cost of cleaning and repair of any items of contents damaged by them in terms of clause 4.1 of the lease, and the Tribunal was satisfied that the Applicant is entitled to recover the sum of £520.00 disclosed in the invoice provided.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondents to the Applicant of the sum of £5,958.39.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Neil Kinnear

Legal Member/Chair

24/01/20

Date