



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/19/1770

Re: Property at 16 Waverley Road, Stenhousemuir, FK5 3JB (“the Property”)

Parties:

Ms Katrina Laing, 5 Blair Place, Falkirk, FK2 7GX (“the Applicant”)

Mr Neil Davidson, 47 Mulberry Crescent, Methil, Fife, KY8 2BA (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent in the sum of £2,220.

Background

The Applicant submitted an application seeking an order for payment in the sum of £1,420. That sum related to arrears of rent in respect of the Respondent’s tenancy of the property at 16 Waverley Road, Stenhousemuir, FK5 3JB. A case management discussion took place on 27th August 2019 and was adjourned to today. The Tribunal issued a letter to the parties dated 9th September 2019 advising them of the date, time and place of today’s case management discussion. In that letter, the parties were also told that they required to attend the hearing and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. Written representations were received from the Respondent on 16th October 2019.

The Case Management Discussion

The Applicant was represented by Ms Amanda Campbell and Ms Jacqueline Shields. The case management discussion proceeded in the absence of the Respondent.

The Tribunal noted that the written representations from the Respondent indicated that the sum outstanding in respect of rent arrears amounted to £2,220. Ms Campbell advised the Tribunal that the Applicant agrees that this is the sum now outstanding. The Tribunal noted that although the Respondent has made an offer to pay by instalments, he has not made an application for a time to pay direction. The Tribunal has no information about the Respondent's income, expenditure or capital. In those circumstances, the Tribunal was not in a position to make any direction in relation to payment by instalments. Ms Campbell advised that, in principle, the offer of monthly payment of £444 is acceptable; she indicated that if payments of £444 per month are adhered to, the Applicant is prepared to accept that. However, the Applicant sought the order for payment in the sum of £2,220 so that enforcement action can be taken if necessary. The Tribunal advised the Applicant's representative that although the Tribunal cannot make a direction that the sum can be paid by instalments, the parties themselves can agree repayment terms.

Findings in Fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement dated 19th January 2019.
2. The rent payable was £710 per month, payable in advance.
3. As at the date of the application, the Respondent was in arrears of rent amounting to £1,420.
4. As at today's date, the rent arrears amounted to £2,220.
5. The Applicant is entitled to the Order sought for repossession.

Reason for Decision

The Tribunal proceeded on the basis of the written documents which were before it. The Respondent accepted that the rent arrears are due. The Tribunal did not have

an application for a time to pay direction and therefore could not make an order in respect of instalments.

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.

N.Irvine

Legal Member/Chair

17th October 2019

Date