



**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/21/0402

Re: Property at 19 Campsie Way, Irvine, KA11 1JQ (“the Property”)

Parties:

Easton Property Newfield Ltd 2 Newfield Drive, Dundonald, KA2 9EW (“the Applicant”)

Ms Leeann Mary Hanlon, 19 Campsie Way, Irvine, KA11 1JQ (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent pay the sum of EIGHT THOUSAND EIGHT HUNDRED AND SIXTEEN POUNDS (£8,816) to the Applicant

Background

- 1. This was a Hearing held on 3rd June 2021 to consider the application made by the Applicant dated 19th February 2021 for an order of payment under Rule 70 of the Tribunal Rules. The Hearing took place by teleconference because of the current coronavirus restrictions. The case FTS/HPC/EV/21/0400 was also dealt with.**
- 2. The application is in respect of recovery of rent arrears which the Applicant states is owed by the Respondent.**
- 3. The Respondent and Steven Easton are parties to a short assured tenancy agreement in respect of the Property which is dated 10th November 2011.**

4. The Applicant became the owner of the Property on 6th July 2018 and has title and interest to make the application by virtue of that ownership.
5. The Respondent was not present on the teleconference and, from enquiries made, it appeared that the date and time of the Hearing had been intimated to her by the Tribunal by letter dated 5th May 2021. It was also noted that the date and time of the Hearing was intimated to her when she was present at the case management discussion which had been held on 16th April 2021.
6. The Applicant was represented on the teleconference.

Preliminary Matters

7. Mr Steven Easton, a Director of the Applicant company was present and indicated that he was seeking an order of payment in respect of rent arrears.
8. Mr Easton said that he was seeking an order of £8,816. He referred the Tribunal to the application which stated that the sum outstanding for arrears of rent as at 19th February 2021 was £7,116. He referred to the terms of the application which stated that the order sought from the Tribunal was "Payment Order for all rent arrears due at the date of the hearing (currently amounting to £7,116 as at 19th February 2021). Mr Easton referred to the documents he had lodged with the Tribunal and which included a copy of a letter sent to the Respondent by the Applicant dated 17th May 2021 which stated that the level of rent arrears in terms of the rent statement which accompanied the letter was £8,391. He said that the current level of arrears as at the date of the Hearing amounted to £8,816.
9. Mr Easton requested the Tribunal to allow the sum sought in the order to be amended to reflect the sum due at the date of the Hearing which was £8,816. He made the request in terms of Rule 14 A of the Tribunal Rules. The Tribunal members indicated that they would consider the request when deliberating after the Hearing had ended.
10. Mr Easton apologised for the Applicant's non appearance at the case management discussion which, he said, had been due to an administrative oversight in its office.

Findings in Fact

1. The Applicant and Respondent are parties to a short assured tenancy agreement in respect of the Property dated 10 November 2011.
2. The rent payable in terms of the tenancy agreement is £425 per month.
3. The Respondent remains in occupation of the Property.
4. There are rent arrears of £ 8,816.

5. The Respondent has, in the past, paid rent into the bank account of the Applicant.
6. During the period for which there were rent arrears, the Applicant received no intimation from the Respondent that repairs required to be carried out to the Property.

The Hearing

11. The Tribunal considered the documents which had been lodged with the application:

(a) Copy of the short assured tenancy agreement dated 10 November 2011.

(b) Updated Rent Statement brought down to 21st May 2021.

(c) Copies of correspondence from Applicant to Respondent with regard to rent arrears.

(d) Copy of statement of Applicant's bank account.

12. Mr Easton said that, in general terms, the Respondent had been a good tenant since the commencement of the lease. He said that occasionally rent had been paid late but that the Applicant had been accommodating. He said that the Respondent had been in receipt of Housing Benefit which had been paid direct to the Landlord until August 2017. He said that, after that, the rent had been paid by the Respondent direct and he did not know if Housing Benefit had ceased or if she had decided to take responsibility for payment.

13. Mr Easton said that the rent statement submitted by him demonstrated that, other than a payment of £40 made on 6th August 2020, no rent had been paid since 2nd March 2020. He said that there had been no response from the Respondent with regard to letters sent to her about the arrears.

14. The Tribunal were referred to copies of letters from the Applicant to the Respondent which had been lodged with the Tribunal. Letters dated 12th May 2020, 29th May 2020, 29th December 2020 and 17th May 2021 detailed the fact that there were arrears and requesting that the matter be dealt with. The letter of 29th December 2020 provided information on where a tenant can get assistance and support where she/he is struggling to make payments of rent.

15. Mr Easton said that the Applicant would have been supportive if the Respondent had contacted it with regard to the rent arrears. He said that there had been silence from the Respondent.

16. Mr Easton was referred to the case management discussion note and the statement contained therein that reported that the Respondent had said that she had tried, without success, to get bank details for paying rent. Mr Easton said that the Applicant had not changed its bank and that the Respondent had successfully made payments into its bank account many times in the past. He referred to the bank statement which had been lodged and which showed payments from the Respondent on 2nd March and 6th August 2020. He said that this evidenced that, not only did the Respondent have bank details for the Applicant but also that she had successfully made payments into that account. He also referred the Tribunal to the letters to the Respondent dated 12th May 2020, 29th May 2020 and 17th May 2020 which gave details of the bank account.
17. Mr Easton was referred to the case management discussion note which referred to the Respondent not paying rent because of repairs issues which had not been attended to. Mr Easton said that the first he knew of any repairs issues was when he read the note. He said that the Applicant had checked its email system and that it had satisfied itself that it had not received any report from the Respondent about outstanding repairs. He said that it had also checked the system in which telephone reports of repairs are logged and that nothing had been found.

Discussion and Determination

18. The Tribunal had to first determine whether or not the Applicant's request to amend the sum sought by the Applicant in the Order. It noted the terms of the application and the fact that it included a request for the order to encompass arrears due at the date of the Hearing. It also had regard to the letter to the Respondent of 17th May 2021 in which the level of arrears as at the date of the enclosed statement was referred to and which was £8,391.
19. The Tribunal determined that, in fairness to the Respondent, she should have an awareness of the sum being sought. This is reflected in Rule 14A which stated that any request to amend the sum sought should be intimated to a Respondent. The letter of 17th May indicated that the sum of arrears was £8,391 and, although the letter did not specifically state that the Applicant would make an application for amendment to the Tribunal, the members considered that the Respondent had knowledge that the sum sought in the application had changed and she would know that she had not paid rent. In the particular circumstances of the application, the Tribunal accepted that the reference in it to the Applicant seeking payment of all sums of rent arrears as at the date of the Hearing was sufficient notice to the Respondent and allowed the application to be amended to the sum of £8,816.
20. The Respondent had indicated at the case management discussion that there had been issues about repairs and also that she had been unable to

get bank details for payment of rent. The Direction of 16th April 2021 had sought submissions from her in this regard. She chose not to make such submissions and had not appeared at the Tribunal.

21. The Tribunal found the evidence of Mr Easton to be credible and accepted that the Respondent had not intimated that there were repairs which required to be carried out to the Property and it also accepted that the Respondent had knowledge of the bank account into which rent should be paid.

22. The Tribunal determined that it was appropriate for it to make an order for payment by the Respondent in the sum of £8,816.

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.

Martin McAllister

Martin J. McAllister,
Legal Member
3rd June 2021