



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/18/3200

Re: Property at 1/0, 59 Main Street, Dundee, DD3 7EY ("the Property")

Parties:

BRL 1995 Discretionary Trust, Bruce Short Solicitors, 3 Rattray Street, Dundee, DD1 1NA ("the Applicant")

Miss Lesley Bannister-Pearson, 1/0, 59 Main Street, Dundee, DD3 7EY ("the first named Respondent")

Mr Ian Charles Bannister, 62 Main Street, Springfield, Fife, KY15 5SQ ("the second named Respondent")

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 in the sum of £1750 should be granted in favour of the Applicant against the first-named Respondent.

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Rules"). The Applicant is seeking an order for payment in the sum of £1750 in terms of section 16 of the Housing (Scotland) Act 2014.
2. The Tribunal had before it the following documents:
 - (i) Application dated 16th November 2018

- (ii) Short Assured Tenancy Agreement between the parties signed 22nd February 2017
- (iii) Standing Order set up print-out
- (iv) Email correspondence between the letting agent and the Respondent's support worker
- (v) Email correspondence between the Respondent and the letting agent
- (vi) Tenant Account Summary
- (vii) Title Sheet for Property – ANG6476
- (viii) Citation of Service upon both Respondents on 23rd January 2019

Case Management Discussion

3. The Tribunal held a case management discussion on 13th February 2019 at the Dundee Carers Centre, Seagate House, 132-134 Seagate, Dundee, DD1 2HB. The Applicant was not present. The Applicant was represented by Calum Gordon, Solicitor, Bruce Shorts Solicitors. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules, having satisfied itself that the requirements of Rule 24(1) had been complied with and that the Respondents had been notified of the Application and the case management discussion.
4. The Tribunal considered the Application. The rent for the Property is £500 per month. The arrears began to accumulate in or around July 2018. The parties entered into an agreement that the Respondent would pay £50 towards the arrears monthly. A payment of £50 was made on 1st November 2018. No further payment towards the rent or the arrears has been made.
5. The Tribunal noted that the tenancy agreement was between the Applicant and the first-named Respondent only. There was no evidence or information lodged with the Tribunal as to the identity of the second-named Respondent and it was not clear what basis there was for including him as a Respondent. In the circumstances, the Tribunal was not prepared to grant decree against the second-named Respondent.
6. Mr Gordon confirmed that he was seeking decree in the sum of £1750, which was the level of arrears outstanding at the time of making the application. He had not been provided with an updated figure for the rent arrears by the Applicant.

Findings in Fact

7. The tenancy agreement between the Applicant and the first-named Respondent is a Short Assured Tenancy with provision for the tenancy agreement to continue on a month to month basis at the end of the initial 6 month period. In terms of the tenancy agreement, the rent due per month is £500. The Respondent has failed to make payment of the rent lawfully

due in terms of the tenancy agreement. The Applicant is entitled to recover the unpaid rent as set out in the Application.

Reasons for Decision

8. The first-named Respondent has failed to make payment of the rent lawfully due in terms of the tenancy agreement between the parties.

Decision

The Tribunal granted an order for payment in favour of the Applicant against the first-named Respondent in the sum of £1750

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

13th February 2019

Date