



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/19/3828

Re: Property at 11 Ravenscroft, Irvine, Ayrshire, KA12 9DE (“the Property”)

Parties:

Mr Jim Sinclair, 6 Langmuir Court, Perceton, Irvine, Ayrshire, KA11 2DT (“the Applicant”)

Ms Tracey Landles, 11 Ravenscroft, Irvine, Ayrshire, KA12 9DE (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

Background

This is an application for a payment order dated 26th 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 originally sought in his application payment of arrears in rental payments of £2,854.00 as at the date of the application.

The Applicant provided with his application copies of the short assured tenancy agreement and rent arrears details.

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 Respondent has been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 3rd January 2020, and the Tribunal was provided with the execution of service.

A Case Management Discussion was held on 31st January 2020 at Russell House, King Street, Ayr. The Applicant attended, and was not represented. The Respondent attended, and was represented by Miss Gibson, of Community Housing Advocacy Project, Ardrossan.

The Applicant had amended the sum sought in this application in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended to £4,439.40 to include rent which had accrued prior to the date set for the Case Management Discussion.

Miss Gibson accepted that the rent arrears sought were due, but invited the Tribunal to adjourn this application to a continued Case Management Discussion in order that the Respondent could receive advice from their complex finances debt adviser with a view to offering the Applicant a realistic and manageable payment proposal.

The Tribunal duly did so, and a continued Case Management Discussion was set and intimated to the parties and Miss Gibson.

Continued Case Management Discussion

A continued Case Management Discussion was held on 13th March 2020 at Russell House, King Street, Ayr. The Applicant participated by telephone conference call, and was not represented. The Respondent did not attend, but was represented by Mr Meek, of Community Housing Advocacy Project, Ardrossan, who participated by telephone conference call.

Mr Meek advised the Tribunal that he appeared as a courtesy to the Tribunal. He had advised the Tribunal shortly before the Case Management Discussion by e-mail that the Respondent had failed to respond to any communications with his organisation for the preceding week, and accordingly he was not in a position to oppose the granting of an order, nor was he in a position to offer any repayment plan.

Mr Meek advised the Tribunal that his colleagues had discussed the Respondent's finances with her, and made recommendations to her, but that she had not thereafter co-operated or engaged further with them.

The Tribunal was invited by the Applicant with reference to the application and papers to grant an order for payment of the sum of £3,363.40, which is the current amount of rent arrears as of today's date. The Applicant produced and lodged an updated rent arrears statement which disclosed the calculation of this amount.

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 against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the copy rent arrears information provided, and parties' submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicant in respect of rent arrears of £3,363.40 (the rent due in terms of the tenancy agreement being £520.00 per month).

Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £3,363.40.

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.

Mr Neil Kinnear

Legal Member/Chair

13/03/2020

Date