



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/23/0508

Re: Property at 6 Burrelton Gardens, Dundee, DD3 9QT (“the Property”)

Parties:

Mr Paul Goodman, 7 Marchfield Crescent, Dundee, DD2 1LE (“the Applicant”)

Mr John Peter Malone, 27 St Albans Terrace, Dundee, DD3 9QA (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £12,539.09.

Background

1. By application dated 16 February 2023, the Applicant sought an Order for Payment from the Respondent as Guarantor for his daughter in respect of unpaid rent that had become lawfully due by his daughter to the Applicant. The sum sought was £12,539.09.
2. The application was accompanied by a copy of a Short Assured Tenancy Agreement between the Applicant and the Respondent’s daughter, commencing on 3 June 2013, and a Rent Statement showing arrears as at 3 February 2023 of £12,539.09. The Tenancy Agreement was signed by the Respondent as a Guarantor and co-obligant that the tenant would duly make payment of all rent and other sums due to the Applicant.

3. The Applicant stated that the tenancy had ended when the tenant moved out on 6 February 2023.
4. On 9 June 2023, the Respondent made written representations to the Tribunal in which he stated that he had no idea what the application was about. His daughter had advised him in late January 2023 that she was having to leave the Property as the owners had decided to sell it. Prior to this, he had not heard of any problems regarding rent arrears. On reflection, he had previously been contacted by the letting agents by email, but no longer had access to that email, as he had ended his contract with Virgin Media in December 2019. Since signing as Guarantor, he had reduced from full-time working and has health problems. He does not qualify for DWP benefits. He felt that his daughter might not have been entirely open and honest with him and advised the Tribunal that she, too, had health issues.
5. On 20 June 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion. The Case Papers were served by sheriff officers on the Respondent personally at his home address on 22 June 2023.
6. On 6 July 2023, the Applicant's letting agents made further written representations. They stated that they understood the Respondent's position and empathised with his health situation, but the action had only been taken due to the large level of arrears and the horrendous condition in which the Respondent's daughter had left the Property. They added that she had not been evicted because the Applicant wished to sell the Property. They were happy to look at a payment plan provided there is a substantial payment up-front.
7. On 23 July 2023 the Respondent emailed the Tribunal and provided some further details of his financial position and his health situation. The Tribunal did not regard it as appropriate to cross-copy that email to the Applicant, as it contained personal information.

Case Management Discussion

8. A Case Management Discussion was held by means of a telephone conference call on the morning of 25 July 2023. The Applicant was present. The Respondent was not present or represented. The Applicant told the Tribunal that the sum sought remained unpaid and that there had been no communication from the Respondent or from his daughter. He stated that he had visited the Respondent's daughter at the Property and had told her that, in view of the level of the arrears, he would have no option put to pursue her father as Guarantor.

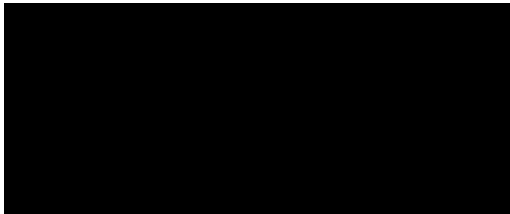
Reasons for Decision

9. Rule 17 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 states that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it the information and documentation it required to decide the application without a Hearing.

10. The Tribunal noted the written representations made by the Respondent, which indicated that his daughter had misrepresented to him the reason for her being evicted from the Property and had not told him of the rent arrears. The Tribunal noted the information provided by the Respondent as to his financial position and his health condition and that the Applicant sympathised with the position in which the Respondent found himself, but he had not contacted the Applicant to offer a repayment arrangement and the Applicant was entitled to enforce the Guarantee against him.
11. The Tribunal was satisfied that the sum sought was lawfully due by the Respondent, as Guarantor for his daughter, to the Applicant.

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.



Legal Member/Chair

25 July 2023
Date