



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising from a tenancy under Section 32 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/CV/20/1204

Re: Property at 25 Coates Gardens, Edinburgh, EH12 5LG (“the Property”)

Parties:

Mr Jonathan Leiper, c/o AM Lettings, 11 South Street, Dalkeith, EH22 1AH (“the Applicant”)

Mr Thomas Sillar, 25 Coates Gardens, Edinburgh, EH12 5LG (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for payment by the Respondent to the Applicant in the sum of £5,125 is granted.

Background

- 1 The Application under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) was made by the Applicant’s Representative on 25 May 2020.
- 2 A Notice of Acceptance of Application is dated 9 June 2020.
- 3 The Applicant seeks a payment Order.
- 4 A conference call Case Management Discussion (CMD) was scheduled for 19 August 2020 at 2pm.
- 5 The Parties were written to by letter dated 27 July 2020.
- 6 Intimation on the Respondent was made by Sheriff Officer, personal service, on 28 July 2020.
- 7 Written responses were due to be submitted by the Respondent by 17 August 2020. None were lodged.

Case Management Discussion (CMD) 19 August 2020

- 8 A Case Management Discussion (CMD) took place on 19 August 2020 at 2p.m. by conference call. The Applicant's Representative, Ms Barr, participated.
- 9 The Respondent did not participate. The CMD started slightly later than scheduled to allow room for any latecomers. I was satisfied that proper intimation had been made on the Respondent and that he was told that he should participate in the CMD. I proceeded with the CMD in his absence, the procedure having been fair.
- 10 The paperwork submitted along with the Application was examined and discussed and included additional paperwork produced regarding an increase in the rent arrears.
- 11 The Short Assured Tenancy (SAT) between the Applicant and the Respondent was signed on 21 October 2016. It was for an initial term from 12 October 2016 to 21 October 2017, then recurred monthly thereafter by agreement. An AT5 had been produced along with an acknowledgement showing that it had been served prior to the SAT being signed.
- 12 The initial rent under the SAT was £995 per calendar month, payable in advance to the Agent by a single standing order. The rent was increased to £1025 per calendar month by way of a letter dated 17 January 2018 intimating the increase would take effect from 21 February 2018. This was in line with Clause 2.2 of the SAT which detailed the requirements to be satisfied when increasing the rent.
- 13 The Respondent had been served with a Notice to Quit by Sheriff Officer, mode of service by letterbox and ordinary post, on 13 March 2020. This meant the contractual tenancy ended on 21 May 2020 and proceeded thereafter as a statutory tenancy at the same rent.
- 14 On 27 July 2020, the Applicant intimated to the Tribunal a request to increase the sum sought to £5,125 and this was crossed over to the Respondent on 30 July 2020 along with the accompanying updated rent schedule. This included rent due to be paid by 21 July 2020 and covering a month in advance.
- 15 An Order was sought for payment of £5,125 of rent arrears and advance rent due.
- 16 No time to Pay Application is with the papers.

Findings in Fact

- I. The Applicant entered a Short Assured Tenancy (SAT) with the Respondent over the Property on 14 November 2017 for an initial term 12 October 2016 to 21 October 2017, then recurred monthly thereafter, recurring on 21st of every month.
- II. The Applicant is the owner of and Landlord over the Property and is registered as such.
- III. The Short Assured Tenancy continued monthly by agreement after the initial term.
- IV. A Notice to Quit dated 10 March 2020 was served on the Respondent on 13 March 2020 by Sheriff Officer letterbox service and by ordinary post.

- V. The contractual Short Assured Tenancy ended by reason of the Notice to Quit on 21 May 2020. The tenancy then became a statutory tenancy with the same rent due monthly.
- VI. The Respondent is in rent arrears of £5,125 representing the rent arrears and rent due and owing as of 21 July 2020, in advance.
- VII. The Application dated 25 May 2020 for payment of £5,125 is accordingly granted.

Reasons for Decision & Decision

I was satisfied that a decision could be made today on the undisputed facts and as there was enough material before me to do so. I was satisfied that the procedure was fair.

I was satisfied that the tenancy between the Parties was a SAT under Section 32 of the Act; that the rent arrears and rent due in advance at 21 July 2020 is £5,125. I was advised no payments having been made as at today, to reduce that figure. I granted an Order for payment.

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.

Susan Christie
Legal Member/Chair

19 August 2020
Date