



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/19/0217

Re: Property at 1F Roberts Street, Forfar, DD8 3DG (“the Property”)

Parties:

Lynart Investments Ltd, Restenneth House, Old Brechin Road, Forfar, DD8 3DX (“the Applicant”)

Mr Jordyn Jones, 24 Summerfield Terrace, Aberdeen, AB24 5JH (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that Applicant is entitled to £850.

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 of the sum of £850 in terms of s16 of the Housing (Scotland) Act 2014.
2. The parties entered into a Short Assured Tenancy between 1st August 2016 and 31st July 2017 which was continued on a month to month basis thereafter. The rent payments of £400 per month were on the same day each month.
3. The Tribunal had before it the following documents:
 - a) Application signed on 16th January 2019 and received by the Housing and Property Chamber on 21st January 2019 stating outstanding rent arrears of £400 and remedial cost of £470.

- b) Short Assured Tenancy Agreement signed 19th July 2016.
- c) Form AT5 signed by the parties on 14th July 2016.
- d) Statement of account - claim summary
- e) Various receipts
- f) Correspondence between parties
- g) Email dated 27th November 2018 from SafeDeposit Scotland confirming Applicant to be returned the deposit.
- h) Applicant's bank statements from 31st July 2018 to 31st December 2018
- i) Photograph of garden
- j) Scottish Land Register summary
- k) Disposition
- l) Notice of Acceptance of Application dated 25th February 2019
- m) Title deeds with reference ANG 31407.
- n) Sheriff Officer certificate of citation for documents pertaining to CMD on 9th May 2019 at including date and time of the CMD. The certificate is dated 16th April 2019 and issued by letterbox delivery. The Sheriff Officer being satisfied that the Respondent resided at the Property.

4. A Case Management Decision ("CMD") was set for 9th April 2019 and all parties were notified. This was duly postponed at the request of the Applicants who were unavailable on that date. A new date was fixed for 9th May 2019. All parties were written to on 13th April 2019 notifying of this date and asking for representation to be made no later than 1st May 2019.

5. The Respondent left the Property at the end of September 2018.

Case Management Discussion

6. The Tribunal held a Case Management Discussion ("CMD") on 9th May 2019 at Caledonia House, Greenmarket, Dundee. The Applicant was represented by Mr David Shepherd form Lynart Investments Ltd. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. Mr Shepherd brought the original AT5 with him. A copy was taken. Mr Shepherd confirmed that he had replaced the oven as it was in a very dirty condition but was only looking for the cost of the oven cleaning. Mr Shepherd had claimed £20 which he paid his daughter in cash but had no evidence of this. The Tribunal did not consider that his could be included as there was nothing to evidence it. The Tribunal was satisfied that the last month rent was outstanding and that the damage caused was not wear and tear to be expected with the tenancy.

Findings in Fact

7. The parties entered into a Short Assured Tenancy on 19th July 2016 with the commencement of the tenancy on 19th July 2016 for a 12 months period until 31st July 2017 and on a month to month basis thereafter. An AT5 was signed by both parties on the 14th July 2016. The rent payments of £400 due on the same day of each month.
8. The Housing and Property Chamber received an Application on 21st January 2019.
9. The Respondent failed to pay the last month rent and had caused damage to the Property. This caused the Applicant to have extra cleaning and repairs to the Property.

Reasons for Decision and Decision

10. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent not paid the rent and was in arrears and had caused damage to the Property. As a consequence the Applicant was entitled to be granted the Order for payment of £850 which is the outstanding rent of £400 and £450 towards the damage caused.

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.

Gabrielle Miller

Legal Member/Chair

Date

9 MAY 19