



Decision on the Case Management Discussion of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to an Assured Tenancy under Rule 70 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/19/0613

Re: No 1 Cottage, Biggars Mill, Port Road, Dalbeattie, DG5 4A ("the Property")

Parties:

J Paterson & Sons Ltd, Bank Square, Dalbeattie, DG5 4HZ ('the Applicant')

J Paterson & Sons Ltd, Bank Square, Dalbeattie, DG5 4HZ ('The Applicant's Representative')

Miss Eva Marie Ball Pickthall ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

Background

1. The Applicant submitted an application to the Tribunal for payment in respect of arrears of rent in the sum of £6474.16.

2. Documents originally lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicant were:

2.1 A copy of the AT5 dated 24th November 2014.

2.2 A letter to the Tenant at the commencement of the lease.

2.3 Rent Statement showing the arrears amounting to £6474.16.

2.4 Emails from Bev Wilkinson of Dumfries and Galloway Council dated 16th October 2018, 5th and 8th November 2018 setting out details of the rent assistance to be provided from the Homelessness Prevention Discretionary Housing Payment Fund.

2.5 Copy of the Notice to Quit from Gillespie Gifford & Brown dated 19th November 2018.

3. First Case Management Discussion

This case called for a Case Management Discussion (First CMD) at 10am on 25th June 2019 at Castle Douglas Community Centre, Cotton Street, Castle Douglas, DG7 1AJ.

The Applicants were not present but their representative Kirsty Houston attended the CMD.

The Respondent was not present and was not represented. The Respondent had been served with notice of the First CMD by advertisement of the First-tier Tribunal for Scotland Housing and Property Chamber website between 21st May 2019 and 25th June 2019.

No written responses had been received from the Respondent.

4. Oral Representations made by the Applicant at the First CMD.

Kirsty Houston advised that the Tenant vacated the Property on 13th January 2019. She acknowledged that the lease had not been produced to the Tribunal and accordingly no evidence of the commencement date of the lease or the rent due under the lease had been provided.

5. The Tribunal identified with the Applicants' representative the following facts:

5.1 The Applicants are the Landlords of the Property. They are heritable proprietors in terms of Land Certificate KRK1717.

5.2 The Respondent was Tenant of the Property in terms of the Short Assured Tenancy between the parties.

5.3 The Tenant vacated the Property on 13th January 2019.

6. Requirements of Section 70 of the Procedure Rules.

6.1 In connection with the requirements of section 70 the application correctly detailed the requirements of section 70(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name and address of the Applicant.
- (ii) the name and address of the Respondents.
- (iii) the reason for making the application.

6.2 Section 70(b)(i) and (ii) and (iii) of the Procedure Rules requires the application to be accompanied by evidence to support the application and a copy of any relevant document. The applicant had provided a copy of the AT5 and the statement of rent

arrears and the other documents detailed at paragraph 2 hereof. However a copy of the lease and a full rent statement for the period of the lease had not been provided.

7. Decision made at the First CMD

The Tribunal adjourned the First Case Management Discussion to a Continued Case Management Discussion to allow the Applicant time to provide additional documents required.

The Tribunal issued a Direction to the Applicant in the following terms:

'The Applicant is required to provide the Tribunal with:-

- 1. A copy of the lease.*
- 2. A copy of a complete rent statement for the full period of the lease.*
- 3. If the lease provides for a deposit to be paid, confirmation as to whether or not the Respondent paid the Deposit.*

The said documentation should be lodged with the Chamber no later than close of business on 19th July 2019.'

8. On the afternoon of 25th June 2019 the Applicant's representative sent the Tribunal Administration an email with a copy of the lease between the parties dated 24th November 2014 and a rent statement for the period December 2014 to January 2019 which showed the rent arrears amounted to £6474.16.

9. Continued Case Management Discussion

This case called for a Continued Case Management Discussion at 10am on 21st August 2019 at The Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT, which took place by Conference call.

The Applicants were not present but their representative Kirsty Houston participated in the Continued Conference Call CMD.

The Respondent was not present and was not represented. The Respondent had been served with notice of the Continued CMD by advertisement on the First-tier Tribunal for Scotland Housing and Property Chamber's website between **2nd July 2019 and 21st August 2019.**

The Tribunal were satisfied that the Respondent had received notification of the Continued CMD in terms of Tribunal Rules 6A and 23. Therefore, as permitted in terms of Tribunal Rule 29, the Tribunal proceeded with the Continued CMD despite the absence of the Respondent.

No written responses had been received from the Respondent.

Kirsty Houston confirmed that the Respondent had made no further payments.

10. Decision

10.1 The Tribunal accepted as correct the evidence of the rent statement produced which showed the outstanding rent to be £6474.16 a copy of which had been provided to the Respondent.

10.2 The Tribunal determined that the outstanding rent due by the Respondent amounted to £6474.16 and accordingly they issued an Order for Payment in this sum.

11. 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.

Jacqueline Taylor

..... Legal Member

21st August 2019