



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 (Act)

Chamber Ref: FTS/HPC/CV/18/2415

Re: Property at 19 Kingseat Drive, Tillicoultry, FK13 6RE (“the Property”)

Parties:

Mr Michael Herrington, c/o Moore Marshall Solicitors, Falkirk Business Hub, 45 Vicar Street, Falkirk, FK1 1LL (“the Applicant”)

Mr Douglas Allan, 19 Kingseat Drive, Tillicoultry, FK13 6RE (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent be ordered to pay the Applicant the sum of £2,500.00

Background

This is an application for payment of rent arrears under section 16 of the Act and Rule 70 of the Procedure Rules.

The Tribunal had regard to the following documents:

1. Application received 20 September 2018 (as amended);
2. Short Assured Tenancy (SAT) Agreement commencing 10 October 2017;
3. Statement of Rent Arrears;
4. Certificate of Execution of Service of Notification of CMD by Sheriff Officers dated 9 January 2019.

Case Management Discussion (CMD)

The case called for a CMD on 25 January 2019. The Applicant was present and represented. The Respondent was not present or represented. The Tribunal were satisfied that the Respondent had notification of the CMD, the fact that the Tribunal could determine the matter in his absence if satisfied that it had sufficient information and it was fair to do so. This was by virtue of the Certificate of Execution of Service of Notification of CMD by Sheriff Officers dated 9 January 2019.

The Applicant advised that the current rent arrears were £4,500.00 This was in excess of 3 months' rent.

The Tribunal so far as material made the following findings in fact:

1. The Parties entered in to a SAT commencing 10 October 2017;
2. As at the date of raising proceedings £2,500.00 rent was in arrears;
3. As at the date of the CMD this amount was still in arrears.

The Tribunal was satisfied on the evidence that £2,500.00 rent was in arrears. As such the Tribunal was satisfied that it could make a decision at this stage and it was fair to do so given the notification to the Respondent.

The Tribunal accordingly granted the order for payment in the sum of £2,500.00.

The Applicant sought judicial interest and costs. The Tribunal considered these applications and refused them both. The Respondent had not sought to defend the proceedings so it would not be in accordance with the overriding objective or the provisions of the Act to make such orders.

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.

Alan Strain

Legal Member/Chair

Date

25 January 2019