

Housing and Property Chamber
First-tier Tribunal for Scotland



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/18/2548

Re: Property at Norwood Lodge, 43 Drymen Road, Bearsden, East Dumbartonshire, G61 2RF ("the Property")

Parties:

Mrs Diane McCallum, C/O Cairn Letting, 34 Gibson Street, Glasgow, G12 8NX ("the Applicant")

Ms Maureen Quinn, Norwood Lodge, 43 Drymen Road, Bearsden, East Dumbartonshire, G61 2RF ("the Respondent")

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the respondent shall make payment to the applicant of the sum of six thousand one hundred and twenty five pounds (£6125).

Background

This is the third case management discussion in connection with this application in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, 'the rules' and s16 of the Housing (Scotland) Act 2014, 'the Act'.

The respondent appeared personally at the first CMD (which was a joint CMD in connection with a rule 66 application) but stated that she had not received the application to recover arrears. She stated she had only received the eviction application. The tribunal had sight of the sheriff officer's execution of service of both

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applications. However, an amended rent statement was produced at the CMO on 20 November 2018 which increased the sum sought to £6125. The original application was erroneously made in terms of rule 111. The CMD held on 20 November 2018 was therefore adjourned to enable the amended application and amended rent statement to be served on the respondent. The tribunal was satisfied that the original papers were served by sheriff officer on 30 October 2018 but in accordance with the overriding objective the tribunal adjourned for service of the amended application.

At the second CMD on the 10 January 2019 the respondent did not attend but was represented by a solicitor. Her solicitor stated that she was only instructed for the rule 66 application and not the rule 70 application. It appeared on that date that although the respondent had been sent the CMD note, it was not clear she had been sent the amended application or the rent statement. The tribunal adjourned consideration of the CMD to today's date and made a direction for the amended application and rent statement to be served on the respondent. The tribunal has had sight of the sheriff officer's execution of service of the papers by sheriff officer on 17 January 2019.

The tribunal is satisfied that the respondent is aware of the application and of today's CMD and that rule 24 has been complied with.

The respondent contacted the tribunal administration on 21 January 2019 and stated that she was not available to attend today. She asked to reschedule the meeting to a date after 15 February 2019. No reason was given. The tribunal declined this request.

No written representations have been received from the respondent regarding the sum sought.

Discussion

The respondent did not attend the CMD and was not represented. As noted above, the tribunal was satisfied that the respondent was aware of the CMD. The tribunal proceeded in her absence in terms of rule 29.

The applicant was represented by Mrs Fiona Herbin of Cairn Letting. Ms Maureen Quinn of Cairn Letting also attended as did Mr Duncan McCallum, the applicant's husband.

The tribunal has before it today:

1. Amended application in terms of rule 70.
2. Rent statement with arrears to November 2018.
3. Land certificate.
4. Tenancy agreement between applicant and respondent dated 6 June 2014.
5. Minute of agreement dated 24 April 2017.
6. AT5.

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Mrs Herbin advised that the applicant was seeking an order for £6125. She also confirmed that the title to the property is in the joint names of the applicant and her sister Mrs Amanda Cross. She stated that Mrs Cross is not the landlord but is aware of the application and is in agreement with it.

Findings in fact

1. The applicant is the joint owner and landlord of the property at Norwood Lodge 43 Drymen Road Bearsden East Dumbartonshire.
2. The applicant entered into a short assured tenancy agreement with the respondent on 6 June 2014 for a period of 6 months until 6 December 2014.
3. Thereafter they entered into a minute of agreement on 24 April 2017 to continue the tenancy on a month to month basis.
4. The rent payable is £875 per month.
5. Rent arrears accrued from May 2018 until November 2018 in the sum of £6125.
6. The sum of £6125 remains outstanding.

Reasons

This is an undefended application to recover rent arrears. At the CMD on the 20 November 2018 the respondent did not dispute the arrears and indicated that she had stopped paying rent because she had received a notice to quit the property. The respondent has not made any representations regarding the application. The application has been adjourned on two occasions to ensure that the respondent has her copy of the amended application and up to date rent statement. The tribunal is satisfied that the respondent is aware of the application and CMD. The tribunal is satisfied that it has sufficient information before it today to make a decision and the procedure has been fair.

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

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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.

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30 January 2019

Lesley A Ward Legal Member

Date