

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/18/2715

Re: Property at 3 Bonnyton Place, Dunfermline, KY11 4AG (“the Property”)

Parties:

Miss Nicola Ellis, 9/3 Adelphi Place, Edinburgh, EH15 1BG (“the Applicant”)

Mr Richard Cochrane, 28 Moodie Street, Dunfermline, KY12 7PL (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

This matter called for a Case Management Discussion at 10am on 18 June 2019 in The Vine Conference Centre, 131 Garvock Hill, Dunfermline, KY11 4JU.

The Applicant was personally present. There was no appearance by the Respondent. The Respondent had been served with the papers and had emailed the Tribunal with a postponement request in respect of a scheduled earlier date for the Case Management Discussion which had been granted. The new date for today’s hearing had been emailed to the Respondent. The Tribunal therefore considered it appropriate to proceed in the absence of the Respondent.

The Tribunal noted that the Applicant had complied with a Direction dated 2 May 2019 and lodged the documentation narrated within that Direction. The Respondent had not.

The Applicant was seeking a Payment Order for £495.00 which was said to be the outstanding arrears of rent, after taking into account the deposit, which the Applicant had had returned to her in full by a Tenancy Deposit Scheme.

After reviewing the documentation produced by the Applicant which included rent and bank statements and email correspondence, the Tribunal noted that the Respondent had initially emailed the Applicant stating that he was

withholding the rent on account of repairing issues with the Property in respect of the roughcasting. The Direction dated 2 May 2019 that the Respondent had not complied with had obliged him to provide evidence of this alleged breach of the repairing standard and to provide confirmation that the rent arrears claimed had been deposited into a bank account.

As this Direction had not been complied with, the Tribunal decided to find that the defence was not being insisted upon and accordingly the Tribunal made a Payment Order in favour of the Applicant in the sum of £495.00.

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.

Andrew McLaughlin

Legal Member/Chair

18/6/19.
Date