



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/19/3313

Re: Property at Flat 17, 6 The Cooperage, Commercial Wharf, Edinburgh, EH6 6LA (“the Property”)

Parties:

Mrs Ann O'Toole, 33/3 Mertoun Place, Edinburgh, EH11 1JX (“the Applicant”)

Mr Neil Young and Ms Linda Davidson, Flat 17, 6 The Cooperage, Commercial Wharf, Edinburgh, EH6 6LA (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents are in breach of the tenancy agreement with the Applicant and have failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of FIVE THOUSAND ONE HUNDRED AND FIFTY POUNDS (£5150) STERLING. The order for payment will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. By application dated 15 October 2019 the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment.
2. On 31 October 2019, the Tribunal accepted the application under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

3. On 20 November 2019, the Tribunal enclosed a copy of the application and invited the Respondents to make written representations to the application by 11 December 2019. The Tribunal advised parties on 20 November 2019 that a Case Management Discussion under Rule 17 of the Regulations would proceed on 23 December 2019. This paperwork was served on the Respondents by Douglas Llewellyn, Sheriff Officer, Dunbar on 22 November 2019 and the certificates of execution of service were received by the Tribunal administration.
4. The Respondents did not make any written representations by 11 December 2019.

Case Management Discussion

5. The Tribunal proceeded with the Case Management Discussion on 23 December 2019. The Applicant was personally present. The Respondents did not appear and were not represented.
6. The Tribunal had before it a Private Residential Tenancy Agreement between the Applicant and the Respondents signed and dated 11 December 2017 and various bank statements,
7. The Tribunal noted that the Applicant and the Respondents entered into a Private Residential Tenancy with a start date 11 December 2017 in relation to the Property. In terms of Clause 7 of the Private Residential Tenancy Agreement, the Respondents agreed to pay monthly rent of £515. The Applicant explained that when the Respondents had first applied for the flat Ms Davidson was known to her as Ms Munro, but that she had signed the tenancy agreement as Ms Davidson and always knew her as Linda Davidson. With reference to the bank statements, the Applicant explained the Respondents had not made a payment of rent into her bank account since 12 November 2018. She explained that the Respondents had set up a company to run a pub called Fox's, but had got into some trouble with Sky TV as they were did not have a licence from Sky. She understood the Respondents had been taken to court by Sky TV. The Respondents had since dissolved their company and no longer ran Fox's. Arrears had increased to £6695 being 13 months arrears. She had emailed and called the Respondents who ignored her. The Application sought an order for £5150.

Findings in Fact

8. The Applicant and the Respondents entered into a Private Residential Tenancy Agreement starting on 11 December 2017 in relation to the Property. In terms of Clause 7 of that tenancy agreement, the Respondents agreed to pay the Applicant a calendar monthly rent of £515 due on 11th of each month.

9. The Respondents have paid no rent since 12 November 2018. The arrears are £6695 being 13 months in arrears. The Respondents are in breach of Clause 7 of the tenancy agreement by not paying rent.
10. The Applicant has attempted to engage with the Respondents to get them to pay the outstanding rent. The Respondents have ignored the Applicant.
11. Arrears of rent were £ 5150 as of 15 October 2019, being the date of the application.

Reasons for Decision

12. The Applicant provided evidence of non-payment of rent in the form of her bank statements. The Tribunal was satisfied the Respondents had an obligation to pay rent of £515 and had failed to do so since 12 November 2018. The Tribunal was satisfied on the basis of the supporting oral submissions made on behalf of the Applicant that the Respondents have been in arrears of rent since then and that arrears had increased to £6695. The Tribunal was satisfied the Respondents were accordingly in breach of Clause 7 of the tenancy agreement. In the circumstances, the Applicant is entitled to an order for payment in the sum sought of £5150.

Decision

13. The Tribunal granted the order for repossession.

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.

S Evans

Legal Member/Chair

23 December 2019

Date