



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/18/1169

Re: Property at Flat G/1, 57 Provost Road, Dundee, DD3 8AG (“the Property”)

Parties:

Northern Housing Company Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr James Bicknell, Flat G/1, 57 Provost Road, Dundee, DD3 8AG (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatrige (Legal Member)

Decision in absence of the Respondent

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

Procedural Background:

The Applicant is seeking an order for payment of rent arrears for the property. An application in terms of Rule 70 (Civil Proceedings) was lodged on 10 May 2018 and the sum outstanding stated as £2220.38, based on a monthly rent of £314.50 initially and increased to £323.94 as of 1 April 2018.

The Applicant lodged the Short Assured Tenancy Agreement dated 5 May 2017 and a Rent Statement dated 9 May 2018 showing as the outstanding amount the sum of £1,258.00 as “Balance carried forward” as of 5 February 2018.

The Tribunal fixed a Case Management Discussion for 13 August 2018 at 10 am at which Mr Matheson from TC Young, the Applicants’ Representative attended. The Respondent did not attend and had not made any representations.

Petra Hennig-
McFatrige

The Applicant had served on the Respondent a Notice to Quit and a Notice in terms of S 33 of the Housing (Scotland) Act 1988. The tenancy for the property is a Short Assured Tenancy.

Mr Matheson advised at the Case Management Discussion that the rent statement was page 1 of 2 and that unfortunately the back page of the statement, which showed the arrears as per the application, had apparently not been copied with the application. However, he was able to produce this at the hearing and also showed the Legal Member a further statement confirming that for the last 3 months no payments had been made. The arrears as of the date of the Case Management Discussion exceeded the original amount stated in the application.

Findings in Fact:

- 1. The Applicants and the Respondents entered into a Short Assured Tenancy on 5 May 2017 with an end at 6 November 2017.**
- 2. In terms of the Agreement rent of £314.50 is due on each first day of the month (clause 1.5).**
- 3. The Landlord raised the rent by letter dated February 2018 as of 1 April 2018 to £323.94 per month in terms of Clause 1.6 of the Tenancy Agreement.**
- 4. The sum of rent due as per the rent statement as of 13 August 2018 amounted to more than the amount stated in the application of £2,220.38**
- 5. The sum of £2,220.38 was still outstanding as at the date of the decision.**

Reasons for the Decision:

The Tribunal make the decision on the basis of the written evidence lodged by the Applicants and the evidence given at the hearing by the Applicant's representative on their behalf. There were no representations by the Respondent and thus there is no dispute about the facts of the case. The rent due outstanding as of 3 May 2018 was £2,220.38 based on the amounts paid as per the rental statement lodged and the rent charge of £314.50 and £323.94 respectively per calendar month and the evidence from the Applicant's representative at the hearing. This sum was still outstanding at the date of the Case Management Discussion on 13 August 2018. There was no valid defence to the action. It is not in dispute that the sum of arrears is due to the Applicant.

Decision:

The order for payment of the sum of £2,220.38 is granted against the Respondent

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Petra Hennig-McFatrige

Legal Member/Chair

13 August 2018
Date