



**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/20/2280

Re: Property at 95 Maree Drive, Cumbernauld, G67 4LW (“the Property”)

Parties:

Mr Salah Alkirwi, Earls Homes, 47 Main Street, Cumbernauld, G67 2RT (“the Applicant”)

Mrs Anne Marchant, Ms Jessica Marchant, 69 Thorniecroft Drive, Condorat, Cumbernauld, G67 4JT; 95 Maree Drive, Cumbernauld, G67 4LW (“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 order for payment be granted in the sum of £9,308.05 with interest at the rate of 3.5%.

Background

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

The Tribunal had regard to the following documents:

1. Application received 29 October 2020;
2. Tenancy Agreement dated 30 January 2009;
3. Rent Statement;
4. Witness Statement and attachments;
5. Certificate of Service of CMD Notification by Sheriff Officers dated 20 November 2020;
6. CMD Note dated 7 January 2021;

7. Direction dated 7 January 2021;
8. Applicant's response to Direction dated 20 January 2021;
9. CMD Notification to Respondent dated 1 February 2021.

Case Management Discussion (CMD)

The case had originally called for a CMD on 7 January 2021. The Applicant had participated and represented himself. The First Respondent participated and was represented by Mr Knox of CAB. The Second Respondent did not participate and was not represented.

Mr Knox had informed the Tribunal that he was not representing the Second Respondent who was profoundly deaf.

The Tribunal at that time was satisfied that the Second Respondent had notification of the CMD under reference to the Certificate of Service by Sheriff Officers dated 20 November 2020. The Second Respondent was aware that the CMD could proceed in her absence.

Mr Knox explained that the First Respondent disputed the amount of the rent arrears and that some payments had been missed. He stated that he would produce documentation to that effect.

The Applicant considered that if there were any errors then they would be small amounts. Rent continued not to be paid.

In the circumstances all Parties had been in agreement that the Tribunal order the production of up to date rent statements by both Parties to see if agreement may be reached on the amount of the arrears and a Hearing averted.

The Tribunal adjourned the CMD to 5 March 2021 and Parties were advised of this verbally at the CMD. The Tribunal issued a Direction on 7 January 2021 requiring both Parties to lodge up to date rent statements. Only the Applicant had responded.

When the case called the Applicant participated and represented himself. Mr Knox participated and advised that he was without instruction and sought leave to withdraw. Leave was granted.

The Tribunal was satisfied that the Respondent was aware of the CMD having been present at the last CMD when it was fixed. Both Respondents had also received notification by post. The Tribunal considered that it was fair to proceed and to determine the matter if it had sufficient information upon which to do so.

The Tribunal then considered the documentary evidence it had received from the Applicants and in so far as material made the following findings in fact:

1. The Parties let the subjects under an SAT dated 30 January 2009;
2. The monthly rent was £540;
3. Parties had received notification of the CMD verbally on 7 January 2021 and by Royal Mail on 1 February 2021;

4. As at 29 October 2020 the rent was in arrears in the sum of £8,158.52;
5. As at the date of the CMD the rent was in arrears in the sum of £9,308.05.

The Tribunal was satisfied that the rent arrears had been established and accordingly granted the application for an order for payment in the sum of £9,308.05.

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

5 March 2021

Legal Member/Chair

Date