



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/22/3884

Re: Property at A3/5 1 Blackfriars Road, Glasgow, G1 1PZ (“the Property”)

Parties:

Mr Morgan Ebert, 3 Westquay House, 20 West Street, Fareham, PO16 0LG (“the Applicant”)

Miss Viviana Francisco and Mr Mario Barradas, both A3/5 1 Blackfriars Road, Glasgow, G1 1PZ (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be decided without a Hearing and made an Order for Payment by the Respondents to the Applicant of the sum of £2,950. The application for the Order to include any further rent arrears down to the date on which the Applicant recovers possession of the Property and for fees and costs was refused.

Background

By application, dated 19 October 2022, the Applicant sought an Order for Payment in respect of rent that has become lawfully due by the Respondents to the Applicant. The sum sought in the application was £2,300, but this was subsequently increased to £2,950. The Applicant also wished the Order to include arrears down to the date on which the Applicant recovers possession the Property and fees and costs.

The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Parties commencing on 11 March 2022 at a rent of £575 per month, and a Rent Statement showing arrears at 11 October 2022 of £2,300. A later Rent Statement showed arrears of £2,950 at 3 February 2023.

On 25 May 2023, the Tribunal advised the Parties of the date and time of a Case Management Discussion, and the Respondents were invited to make written representations by 11 June 2023. The Respondents did not make any written representations to the Tribunal.

Case Management Discussion

A Case Management Discussion was held by means of a telephone conference call on the morning of 27 June 2023. The Applicant was not present or represented. The first-named Respondent, Miss Francisco was present. The second-named Respondent was not present, being represented by Miss Francisco.

Miss Francisco told the Tribunal that the Respondents accepted that the sum sought was due, and that the rent for May and June 2023 had also not been paid.

Reasons for Decision

Rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing, including making a Decision. The Tribunal was satisfied that it had before it sufficient information and documentation it required to enable it to decide the application without a Hearing.

The Tribunal was satisfied that the sum sought, as amended to £2,950, was lawfully due by the Respondent to the Applicant.

The Applicant's request that the Order include arrears down to the date on which the Applicant recovers possession the Property and fees and costs was refused. The Tribunal cannot make an Order in respect of a debt that has not fallen due and, in terms of Rule 40 of the 2017 Regulations, can only make an order for expenses against a party where that party through unreasonable behaviour in the conduct of the case has put the other party to unnecessary or unreasonable expense. The Tribunal was satisfied that the behaviour of the Respondents had not been unreasonable.

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.



George Clark
Legal Member/Chair

29 June 2023
Date

