



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/19/2384

Re: Property at 98B Burghmuir Road, Perth, PH1 1HT ("the Property")

Parties:

Mr Michael Houston, Auteven, West Huntingtower, Perth, PH1 3NU ("the Applicant")

Mr John Andrew McKechnie, 118 Bute Drive, Perth, Perthshire, PH1 3DA ("the Respondent")

Tribunal Member: Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent and rechargeable repairs. The Tribunal accordingly has decided to make an order for payment in the sum of ONE THOUSAND SEVEN HUNDRED AND TWENTY ONE POUNDS AND FIFTY PENCE (£1721.50) 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**

Background

1. This is a continued Case Management Discussion ("CMD") following upon a CMD on 15 November 2019. The application relates to payment of arrears of rent, repair costs for damage to the property said to have been caused to the Property during the Respondent's tenancy at the Property and a Sheriff Officer's fee for tracing the Respondent. The Tribunal's Note dated 15 November 2019 is referred to.
2. The Tribunal noted that the Respondent had been traced to be living at 118 Bute Drive, Perth by Sheriff Officers. This address had been used by the Tribunal administration to serve the Application and supporting papers for the first CMD on the basis that the Sheriff Officers had reasonable grounds for believing the Respondent to be living at that address.
3. Notice of the continued CMD was also served on the Respondent at that

address by both Recorded Delivery and First Class Post on 6 December 2019.

Case Management Discussion.

4. The Tribunal proceeded with the continued CMD on 13 January 2020. Mr Houston the Applicant appeared at the continued CMD. There was no appearance by or on behalf of the Respondent. The continued CMD proceeded as the Tribunal was satisfied that notice of the continued CMD had been effected on the Respondent.
5. Since the last CMD, Mr Houston had lodged a handwritten rent statement which showed arrears of rent of £2889.90. Following upon the concerns raised at the CMD that some of these arrears had prescribed, he accepted that he would not be entitled to seek payment of any sums which became due 5 years before the current Application was lodged on 29 July 2019.
6. In terms of the rent statement lodged it was shown the Respondent had failed to pay rent due on 13 August 2014, 13 September 2014, 13 October 2014 and 13 November 2014. The Applicant explained that he was only seeking half a month's rent for November 2014 as the tenancy had ended on 27 November 2014. These amounted to £1400. The Tribunal noted that in terms of Clause 6 of the tenancy agreement between the parties, the monthly rent was £400.
7. In relation to the claim for damages, Mr Houston explained that there was no paperwork for this. At the time he ran a building company and used his own employees and materials to carry out the repair works to the Property after the Respondent had left. He explained that the works were not something that they would have receipts for, but the works and probably more were carried out after the Respondent had left.
8. The Tribunal noted the terms of the letter which the Applicant had sent to the Respondent setting out the cost of repairs on 7 July 2016 namely-

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| • Re-glazing a glass panel | £52.00 |
| • Lock replacement | £94.50 |
| • Repairs to living room wall where shelf ripped off | £85.00 |
| • Vandalised kicker boards to kitchen units | £90.00. |
9. The Tribunal noted that in terms of Clause 28 the Respondent is responsible for repair costs which are due to his fault or negligence. Given that the tenancy ended on 27 November 20-14, there was no issue with regard to any of these sums having prescribed.
10. The third aspect of the Applicant's claim related to Sheriff Officer's fees for tracing the current whereabouts of the Respondent. The Applicant could not point to a clause in the tenancy agreement that would allow him to claim such a sum.

Findings in Fact

1. In terms of Clause 6 of the tenancy agreement between the parties in relation to the Property, the Respondent agreed to pay the Applicant monthly rent of £400. The said tenancy agreement had terminated in 27 November 2014.
2. The Respondent had fallen into rent arrears of £2889.90 as at 27 November 2014.
3. All arrears prior to 29 July 2014 had prescribed. Arrears then accrued from 29 July 2014 – 27 November 2014. The Respondent failed to pay rent due on 13 August 2014, 13 September 2014, 13 October 2014 and 13 November 2014. These arrears amounted to £1400.
4. In terms of Clause 28 of the tenancy agreement the Respondent is responsible for repair costs which are due to his fault or negligence. The Respondent had caused some damage to the Property at termination on 27 November 2014.
5. The Applicant sent to the Respondent a letter setting out the cost of repairs on 7 July 2016. The costs incurred by the Applicant comprised re-glazing a glass panel for £52.00, a lock replacement for £94.50, repairs to living room wall where shelf ripped off at £85.00 and vandalised kicker boards to kitchen units replaced at a cost of £90.00. The Applicant carried out these repairs. The repairs totalled £321.50.
6. The Respondent has failed to pay the rent arrears or the cost of repairs for which he is responsible in the sum of £1721.50.

Reasons For Decision

The Applicant provided evidence of non-payment of rent in the form of the tenancy agreement and rent statement. He provided a letter setting out the repairs which stated had been caused by the Respondent. The Tribunal accepted the oral submissions made by the Applicant, whom the Tribunal found to be credible, that the repair works had been carried out. It accepted that the costs of repairs had been borne by the Applicant. The Tribunal was satisfied on the basis of the tenancy agreement, the rent statement, the letter and the supporting oral submissions made by the Applicant that the Respondent was in arrears of rent and was responsible to pay the Applicant the arrears and the costs of damaged items which required repair.

Decision

The Tribunal issued an order for payment in the sum of £1721.50.

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



13 January 2020.

Date