



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/19/1856

Re: Property at 2/2, 108 Stratford Street, Glasgow, G20 8SF (“the Property”)

Parties:

Mr Alan Liangbiao Hu, 4 Kelvindale Place, Glasgow, G20 8BU (“the Applicant”)

Ms Laura Todd, 16 McNeish Drive, Annan, Dumfriesshire, DG12 5HG (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent of the sum of £1653 should be granted in favour of the applicant.

Background

1. An application was received on 24 June 2019 for a payment order brought in terms of rule 70 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).
2. The applicant was seeking payment of 1) rent arrears of £1700 from the respondent in relation to the property and 2) an unspecified sum in respect of damage to the property.
3. The application included copies of the tenancy agreement and the applicant’s bank statements for the months from July 2018 up to May 2019.

4. A handwritten letter dated 8 July 2019 was received from the applicant on 16 July 2019, together with a handwritten rent statement showing the outstanding rent due up until 30 June 2019 to be £1993. In this letter, the applicant stated that he was now seeking arrears of £1653 from the respondent. He also stated that he no longer wished to pursue a claim for compensation for damage to the property from the respondent.
5. The tribunal instructed sheriff officers to serve notice of a case management discussion (CMD) scheduled for 19 September 2019, together with the application papers and guidance notes, on the respondent. The sheriff officers did not find the respondent at the address which had been provided by the applicant. They then visited her father's address, which was also mentioned in the application form, and received confirmation from her brother that she was now resident at that address. They served the papers on her at that address by giving them to her brother, on 8 August 2019.
6. No written representations or time to pay application were received from the respondent prior to the CMD.

The Case Management Discussion

7. A CMD was held on 19 September 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was present and represented himself. The respondent was not present and was not represented.
8. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a case management discussion had been duly complied with. The tribunal delayed the start of the discussion by 10 minutes, in case the respondent had been detained. She did not appear, however, and no telephone calls or messages had been received from her. The tribunal therefore proceeded with the CMD in the absence of the respondent.
9. The applicant confirmed that he was seeking an order for payment by the respondent of a total of £1653, calculated by deducting the £340 deposit which she had paid from the £1993 rent arrears. He pointed to the bank statements before the tribunal, and to the handwritten rent statement. The bank statements supported what was contained in the rent statement, namely that the respondent had paid the rent for the first three months of her tenancy between September and November 2018. Since then, she had made only one payment of £340 in March 2019.
10. The tribunal chairperson asked whether he had any evidence that he had been in contact with the respondent with regard to the arrears. He showed the tribunal a long chain of text message exchanges between himself and the respondent on his mobile phone. It was clear from this that the respondent was aware of the outstanding arrears, and had apologised on several

occasions for not having paid her rent. She had also said on a number of occasions that she would pay the rent when her benefit payments came through. The applicant told the tribunal that she had promised she would pay many times, and that he had believed here, but that she had failed to do so.

11. The applicant stated that the respondent had left the property in September 2019, but the text messages seen by the tribunal suggested that she had left at the end of June 2019. The applicant confirmed in any case that he was seeking payment of rent up until the end of June 2019.

Findings in Fact

12. The tribunal made the following findings in fact:

- The tribunal was satisfied that there was a valid short assured tenancy in place between the parties.
- The applicant is the owner of the property. He was the landlord in terms of the short assured tenancy agreement between the parties dated 1 September 2018.
- The rent due under the tenancy agreement was £340 per calendar month, payable in advance. A deposit of £340 was also payable under the tenancy agreement.
- As at 30 June 2019, the respondent owed the applicant the sum of £1993 in rental payments.

Reasons for Decision

13. Having considered the terms of the short assured tenancy agreement, and the bank statements and rent statement provided with the application, the tribunal noted that this confirmed an outstanding balance of rent arrears up to and including 30 June 2019 in the sum of £1993. Having considered the text messages provided by the applicant, the tribunal was satisfied that the respondent was aware that this was due. The outstanding sum due, in light of the deduction of the deposit sum, was £1653. The tribunal therefore decided to make an order for payment by the respondent to the applicant of that sum.

Decision

The tribunal grants an order for payment by the respondent to the applicant for the sum of £1653.

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 O'Neill

Legal Member/Chair

19 September 2019

Date