



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/23/1328

Re: Property at 13 Pipers Court, Shotts, ML7 4DS (“the Property”)

Parties:

Mr Richard Duckett, Mrs Kerry Duckett, 1 Glengowan, Millheugh, Larkhall, ML9 1AS (“the Applicant”)

Mr Derek Adam, 13 Pipers Court, Shotts, ML7 4DS (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member) and Helen Barclay (Ordinary 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 in the sum of £5500 be made in favour of the Applicant against the Respondent.

Background

1. The Applicant sought an order for payment of £3850 in respect of rent arrears. The Applicant had lodged Form F dated 20 April 2023. The documents produced were a Tenancy Agreement dated 1 September 2022 and a rent statement showing arrears of £3850;
2. Sheriff Officers had served the paperwork and notification of the Case Management Discussion on 9 June 2023 and a certificate of service was provided to the Tribunal.

Case Management Discussion (CMD) on 13 July 2023

3. The CMD took place by teleconference on 13 July 2023. The Applicant was represented by Mrs Colette Lloyd. The Respondent was absent. No written representations had been received from the Respondent by the Tribunal.
4. The CMD was conjoined with an application for an Eviction Order under Reference FTS/HPC/EV/23/1327.
5. An updated rent statement had been produced to the Tribunal. This showed that no payments of rent had been made by the Respondent since the application was made to the Tribunal and the rent arrears as at the date of the CMD amounted to £5500. An application was made to amend the sum sought in the Payment Order. This application to increase the sum was sent to the Respondent by letter dated 6 July 2023.
6. The Tribunal went over the paperwork and the prior procedure. The purpose of the CMD was explained, and that in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ('the Rules') the Tribunal may do anything at a CMD which it may do at a Hearing, including making a decision.
7. Mrs Lloyd moved the Tribunal to grant the Order for Payment in the increased amount of £5500 of rent arrears. She stated that the Respondent tenant had paid the first months' rent and the Applicant had received no payment since. The Respondent had made several excuses for not paying his rent. He had stated that he had changed jobs and that there was an issue relating to a fraud on his bank account. The Respondent had stopped communicating with the Applicant's Representative altogether since April 2023. The Applicant wished the Property to be returned to him in order that he could obtain a decent tenant. Mrs Lloyd said that in addition, the Applicant had been unable to access the Property and was concerned regarding the Property's current state.

Findings in Fact

8. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced on 1 September 2022;
 - (ii) In terms of Clause 8 of the Agreement the Respondent was due to pay rent to the Applicant in the sum of £550 per calendar month payable in advance;
 - (iii) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 12A of Schedule 3 to the 2016 Act, and which was served on 16 March 2023;
 - (iv) On 16 March 2023 the Respondent was in rent arrears over three consecutive months and was in arrears or rent of an amount equivalent to 6 months' rent;

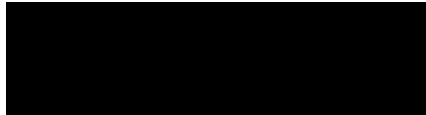
- (v) The Respondent has been in continuous arrears of rent since October 2022;
- (vi) The Respondent is in arrears of rent amounting to £5500 at the date of the CMD.

Reasons for Decision

- 9. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties.
- 10. Having made the above findings the Tribunal determined to grant the Payment Order sought in favour of the Applicant.

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.



Yvonne McKenna

13 July 2023

Legal Member/Chair

Date