



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/20/0571

Re: Property at 12/5 Wardlaw Terrace, Edinburgh, EH11 1TW (“the Property”)

Parties:

Mrs Shonand Wilson, 24 Main Street, Edinburgh, EH4 5BY (“the Applicant”)

Mr Piotr Jablonski, formerly residing at Flat 5, 12 Wardlaw Terrace, Edinburgh, EH11 1TW and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £952 to the Applicant in relation to rent arrears.
2. The application contained :-
 - A copy of the tenancy agreement,
 - Bank statements
 - Various letters and emails between the first respondent and applicant.
3. This case management discussion had been continued from a CMD on 20 August 2020 in order that service by advertisement could take place on the

first respondent, and in order that the second respondent could seek legal advice on defending this application. Reference is made to the terms of the case management discussion note issued.

4. On 18 September 2020 correspondence was received from the second Respondent's agents advising that: they had been instructed; they advised that their client was defending the application against her as she had left the property in around May 2019; the rent arrears had accrued after that date; they submitted correspondence between the first respondent and the applicant to the effect that the applicant accepted that the first respondent now resided at the property alone and he was solely responsible for the rent from that date. Further, that the applicant was personally barred from seeking payment of this debt from the second respondent. They sought that the second respondent be removed from the application.
5. At today's case management discussion, the Applicant attended. There was no attendance from the first or second respondent or any agent. Service of the application had been made by advertisement on the first respondent. The second respondent had been made aware of today's CMD. I was satisfied that I was entitled to continue with today's CMD in the absence of the respondents.

Discussion

6. The applicant addressed me first, on the issue of the correspondence which had been received from the second respondent's agent. She advised that the tenancy agreement had not been amended and both respondents were still named in it. However, she did not dispute that the second respondent had left the property in around May 2019. She did not dispute the correspondence which had been lodged confirming that the first respondent was now solely responsible for the rent from May 2020. She advised that she wished to amend the application into the sole name of the first respondent, Piotr Jablonski. She advised that she was no longer pursuing rent arrears against the second respondent, Katarzyna Karasiewicz. I agreed to the amendment sought.
7. The Applicant referred me to the tenancy agreement between the Applicant and the Respondent. She confirmed that rent had been payable until the end of November 2019. She advised that the Respondent left the property at that date. She advised that the Respondent was aware of the rent arrears. He had offered to make repayment of the rent arrears. She advised that he had not done so. She advised that she was seeking repayment for the rent arrears. She no longer sought repayment of the sheriff officer's fees. The sum she sought was £861. She advised that it was still outstanding.
8. She therefore sought an order for payment of £861.

Findings in Fact

9. The Tribunal found the following facts to be established:
10. A tenancy agreement was entered into between the Applicant and the Respondent for the Property and existed between the parties. It was entered into on 25 May 2017.
11. The tenancy agreement provided that rent was £650 was payable per calendar month in advance. Rental payments were due on the 25th day of every calendar month.
12. The correspondence sent from the applicant to the respondent shows the amounts due from August 2019 until November 2019.
13. The correspondence showed total rent arrears outstanding as at 25 November 2019 being £1611.
14. That there was a deposit payment of £750; this had been retained by the Applicant and had reduced the arrears to £861.
15. That it appears that there had been no payments towards the rent arrears.

Reasons for Decision

16. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to actions arising from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988.
17. As this tenancy is an assured tenancy, I am content that I have jurisdiction to deal with this case.
18. There was no response or appearance from the Respondent.
19. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was evidence showing the arrears due and additional information was provided today by the Applicant that the sum sought for rent was still outstanding as at today's date.
20. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sought.

Decision

21. I grant an order in favour of the Applicant for EIGHT HUNDRED AND SIXTY-ONE POUNDS (£861.00) STERLING against the Respondent.

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.

M Barbour

05/10/2020

Legal Member/Chair

Date