



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

Chamber Ref: FTS/HPC/CV/23/1703

Re: Property at 5/13 South Lorne Place, Edinburgh, EH6 8QN (“the Property”)

Parties:

Mrs Elizabeth Drummond Dale, Mr Timothy Daniel Dale, 20 Brunstane Road, Edinburgh, EH15 2QJ (“the Applicant”)

Mr James Andrew Ledingham, 5/13 South Lorne Place, Edinburgh, EH6 8QN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £3750.00 (THREE THOUSAND SEVEN HUNDRED AND FIFTY POUNDS) with interest at 8% per annum from the date of this decision, namely 28th August 2023.

Background

1. An application was received by the Housing and Property Chamber dated 25th May 2023. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 29th July 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 28th August 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 19th August 2023.

3. On 1st August 2023, sheriff officers served the letter with notice of the CMD date and documentation upon the Respondents by letterbox service. This was evidenced by Certificate of Intimation dated 1st August 2023.
4. The case was conjoined with case FTS/HPC/EV/23/1702.

The Case Management Discussion

5. A CMD was held on 28th August 2023 at 10am by teleconferencing. The Applicant was represented by Mrs Claire Mullen, solicitor, TC Young solicitors. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
6. The Tribunal was satisfied that the outstanding amount for £3750 was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.
7. Mrs Mullen told the Tribunal that there has been no contact from the Respondent. He is 34 years old and in employment. He lives in the Property as a single man. He last contacted the Applicants on 6th March 2023 when he offered to pay £100 per month. This has not been forthcoming. There have been emails, WhatsApp messages, telephone calls and visits to the Property but the Respondent has not responded to any of these communications. The Respondent was contacted regarding entry for a water ingress problem. Access was attempted but failed. However, it was seen that the Respondent accepted delivery of takeaway food but refused to open the door for the repair to be undertaken. The Respondent has no known significant health conditions.
8. The Applicants are both in employment. They have two other properties. However, one is vacant and is needing to be refurbished. This reduction in the income from two out of three properties as the Respondent is not paying his rent on this property. The Property is mortgaged. The Applicants have continued financial commitments to the mortgage on the Property, factoring costs and other costs arising from letting the Property. The arrears have accrued to £6000. There is a parking space with the Property which the Respondent is subletting without permission and profiting from. The Second Named Applicant's brother is critically ill in Australia. The Second Named Applicant has flown to be with him. However, due to the ongoing financial pressures that have resulted from this tenancy it is unlikely that the rest of the family would be able to join her should her brother's condition deteriorate.
9. The Tribunal accepted that interest at 8% was proportionate and appropriate.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 26th November 2021.

11. The Respondent has persistently failed to pay the rent charge of £750 per month. The rent payments are due to be paid on 1st day of each month.
12. Arrears accrued to more than six months rent arrears as at the date of the CMD.
13. The arrears sought in the application are £3750 with interest at 8% per annum. This has increased from the point of application to £6000 at the point of this CMD.

Decision

14. The Tribunal found that the Applicant was entitled to be granted an order for payment from the Respondent amounting to £3750 with interest at 8% per annum from the date of this decision.

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.

G Miller

28th August 2023

Legal Member/Chair

Date