



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/19/3956

Re: Property at 764 Pollokshaws Road, Flat 1/1, Glasgow, G41 2AE (“the Property”)

Parties:

Mr Mohammed Alam, 738 Pollockshaws Road, Glasgow, G41 2AE (“the Applicant”)

Ms Janette Ross, 764 Pollokshaws Road, Flat 1/1, Glasgow, G41 2AE (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member) and Elizabeth Dickson (Ordinary Member)

Decision

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

Background

1. This application is a payment action raised by the applicant seeking an order for payment of rent arrears in respect of the tenancy between the parties.
2. It was lodged with the tribunal on 12 December 2019
3. It has been subject to various procedures and has been linked and heard simultaneously with two other applications by the same applicant in which eviction orders were sought by him against the respondent
4. The eviction cases were lodged under reference numbers FTS/HPC/EV/21/1348 and FTS/HPC/EV/21/1349

5. The applicant initially sought an order for payment of rent arrears totalling £2822.16 at 12 December 2019.
6. At an earlier case management discussion on 21 August 2020 it was also decided that this payment application should be delayed until a decision was reached in an application which has been made by the respondent seeking a repairing standard enforcement order. That application is under tribunal reference number FTS/HPC/RP/20/0471. A decision on that application was made after a hearing on 18 March 2022 where a repairing standard enforcement order was made.
7. The tribunal thereafter fixed a date for the hearing of this application along with the two eviction cases under reference numbers FTS/HPC/EV/21/1348 and FTS/HPC/EV/21/1349 on 29 April 2022. Appropriate information of the date and time of the hearing was given to the parties.

The hearing

8. The hearing took place on 29 April 2022. The applicant attended and was represented by his solicitor, Mr Hussain from Legal and Legal, 62 Nithsdale Road Glasgow. The respondent attended personally and was not represented.
9. The tribunal listened to submissions from the solicitor from the applicant, noted evidence from the Applicant and thereafter noted the response from the respondent.

Discussion and decision

10. Prior to the hearing no further evidence was produced by the applicant with regard to the current level of arrears. During the hearing he was unable to provide any evidence of what he claimed to be the current figure of rent arrears.
11. The tribunal, asked whether any abatement of rent should be allowed in respect of the interior condition of the property. In this regard the tribunal made reference to the repairing standard enforcement order recently granted by another tribunal in respect of the property.
12. The applicant indicated that the work in terms of the repairing standard enforcement order was being done and that much of it had now been completed. He confirmed that the relevant gas safety check had not yet been done nor that the repairs required to the boiler has been carried out. He admitted that some rent is being paid via housing benefit but claimed that there is a shortfall of approximately £50 per month.

13. Given the failure of the applicant to provide any specification of the amount of arrears and the tribunal's knowledge of the repairing standard enforcement order which has been granted and the likelihood that such an order might give rise to an argument that there should be significant abatement of rent, the tribunal took the view that no order should be made in respect of this application.
14. The tribunal was not satisfied that it had any appropriate evidence relating to the current figure of arrears. The tribunal was not satisfied that the amount claimed to be outstanding as at December 2019 or any additional arrears accrued since then would not fall to be reduced by a significant amount to take into account an abatement of rent linked to the condition of the property which had been found by the other tribunal in the repairing standard application.

Decision

The tribunal decided to dismiss this application without making any order

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.

James Bauld

Legal Member/Chair

6 June 2022
Date