



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/20/0105

Re: Property at 10A Thorton Road, Kirkmuirhill, ML11 9QE (“the Property”)

Parties:

William Davidson Plumbers Ltd., 21 Vere Road, Kirkmuirhill, ML11 9RS (“the Applicant”)

Mr Christopher Tansey, Unknown, Unknown (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order be granted against the respondent in the sum of One Thousand Six Hundred and Twenty Five Pounds Sterling (£1,625)

Introduction

This is an application under Rule 111 in which an order for payment in relation to alleged rent arrears arising from a private residential tenancy is sought.

An initial Case Management Discussion (CMD) took place by teleconference at 2.00 pm on 14 July 2020. The applicant was represented by Mr William Davidson.

Service of the proceedings was made upon the respondent by Sheriff Officer on 26 February 2020. The respondent did not participate in the initial CMD on 14 July 2020. He had not lodged any response to the application or written submissions. Mr Davidson revealed at the CMD on 14 July 2020 that the respondent had removed himself from the property and in all likelihood had done so prior to the Sheriff Officer delivery service – which was by letterbox service, not personal.

In the circumstances, the Tribunal was not satisfied that the respondent had received intimation of the proceedings. The Tribunal could not be satisfied that he had knowledge of the CMD. No order could be made against the respondent in such circumstances.

Accordingly, service of the proceedings was directed to take place by way of advertisement on the Chamber website under Rule 6A. Additionally, the applicant was to seek confirmation from the letting agent – Countrylet – as to when the respondent removed himself. An additional factor was that the application had not been accompanied by clear relevant vouching in respect of the rent arrears. The applicant undertook to provide a rent statement.

A further CMD was arranged to take place on 10 September 2020 at 10.00 am. Service of the proceedings was made via advertisement on the Chamber website. This took effect on 6 August 2020. Valid service by advertisement has taken place and this is certified.

A formal rent statement was lodged by e mail from the Applicant on 21 July 2020.

A further CMD took place on 10 September 2020 at 10.00 am. Neither party participated in the teleconference hearing. The applicant's representative was called at around 10.15 am. He claimed not to know of the hearing and stated that he was not in a position to participate on that day. In the circumstances the application was further adjourned to a further fresh CMD.

Intimation of the fresh CMD was again made via advertisement on the Chamber website. This took effect on 24 September 2020. Valid service by advertisement has taken place and this is certified.

The further CMD took place on 29 October 2020 at 10.00 am. The applicant was again represented by Mr William Davidson. The respondent did not participate in the teleconference hearing.

Findings and Reasons

The property is 10A Thorton Road, Kirkmuirhill ML11 9QE.

The parties entered into a private residential tenancy in respect of the property which commenced on 30 July 2019. The rent was stipulated at £325 per calendar month.

As at the date the application was made, the respondent was in rent arrears to the extent of 5 months' rent for the months of August, September, October, November and December 2019. The rent statement is professionally prepared and discloses that at the date of application £1,625 was outstanding.

The applicant is entitled to recover rent lawfully due under the lease which has not been paid. The applicant is entitled to a payment order in the sum of £1,625.

The Tribunal relied upon the documentary evidence produced by the applicant including the rent statement, together with the oral evidence of Mr Davidson which the Tribunal found credible and reliable. The Tribunal attached weight to all of this unchallenged evidence.

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.

Richard Mill

29 October 2020

Legal Member/Chair

Date