



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/0350

Re: Property at 36 Rigghead, Stewarton, KA3 3DH (“the Property”)

Parties:

Dr Lachlan McMillan, 95 High Street, Stewarton, KA3 5DX (“the Applicant”)

Mr Stephen Murphy, 16 Sim Street, Stewarton, KA3 3BP (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order in the sum of Four thousand two hundred and fifty pounds (£4,250) Sterling

Background

- 1 By application dated 28 January 2020 the Applicant sought an order for payment of rent arrears against the Respondent in the sum of £4,250. In support of the application the Applicant provided a copy Tenancy Agreement and Bank Statements.
- 2 By Notice of Acceptance of Application dated 7 May 2020 the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 14th August 2020. Due to the imposition of restrictions in response to the Covid-19 pandemic the Case Management was scheduled to take place by tele-conference. A copy of the application paperwork together with the date and time of the Case Management

Discussion and instructions on how to join the tele-conference was served upon the Respondent personally by Sheriff Officers on 17th July 2020.

The Case Management Discussion

- 3 The Case Management Discussion took place on 14 August 2020 by teleconference. The Applicant was in attendance. The Respondent did not attend.
- 4 Having noted that the application paperwork had been served on the Respondent by Sheriff Officers, the Legal Member determined to proceed with the Case Management Discussion in his absence having been satisfied that he had received proper notification of the date, time and procedures for joining the tele-conference.
- 5 The Applicant explained that he was seeking the order for payment as sought in the application, in the sum of £4250. The Respondent had commenced the tenancy in November 2016. However from that time until his eviction from the he had never paid rent. The Applicant had later found out that the Respondent's mother was giving him money for rental payments but he was spending it on other things. His mother was taken aback when she had found out and had made a lump sum payment to the Applicant, however when the arrears continued to accrue she did not want any further involvement, understandably. The Applicant reiterated that the Respondent had never himself paid anything to the rent account. The Applicant had obtained an order for payment from the Tribunal in 2019 in the sum of £2950 and the current application sought the balance of the arrears that had accrued up to the date of the eviction.

Findings in Fact and Law

- 6 The parties entered into a Short Assured Tenancy Agreement in respect of the property which commenced on 7 November 2016.
- 7 In terms of Clause 4 of the said Tenancy Agreement the Respondent had a contractual obligation to pay rent at the rate of £425 per month.
- 8 The tenancy terminated on 17 May 2019. As at the date of termination arrears in the sum of £4,250 were outstanding.
- 9 The Respondent is liable for payment of the said sum of £4,250 in terms of the Tenancy Agreement between the parties.

Reasons for Decision

- 10 The Tribunal was satisfied that the Respondent had received proper notification of the application and the Case Management Discussion. The Tribunal therefore considered it was able to continue with the Case Management Discussion in the absence of the Respondent. The Tribunal was further satisfied that it was able to make a determination of the application at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties.
- 11 Having considered the terms of the tenancy agreement and submissions from the Applicant, and based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £4250. The Tribunal accepted the evidence of the Applicant that the Respondent had a contractual obligation to make payment of rent at the rate of £425 per month and had failed to do so. The Respondent had not sought to dispute the terms of the application and there was no evidence before the Tribunal to contradict the position put forward on behalf of the Applicant. The Tribunal therefore made an order for payment 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.

14 August 2020

Legal Member/Chair

Date