



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/0839

Re: Property at 30/7 Burghmuir Court, Linlithgow, EH49 7LJ (“the Property”)

Parties:

Mr David Barnes, Ms Fiona McRobbie, 59 Oatlands Park, Linlithgow (“the Applicants”)

Mr Greg Paterson, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £4940.00

Background

1. By application dated 20 February and as amended by application dated 18 September 2020 the Applicants’ representatives RGM Solicitors, Grangemouth applied to the Tribunal for an order for payment by the Respondent in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representatives submitted a copy of the tenancy agreement and a rent schedule in support of the application.
2. By Notice of Acceptance dated 7 October 2020 a legal member of the Tribunal accepted the application and a Case Management Discussion was assigned.
3. The Tribunal issued a Direction to the Applicants representative to confirm the sum currently sought by the Applicant and to provide an updated rent schedule. By email dated 9 October 2020 the Applicants representatives provided a rent

schedule confirming the rent due as at 1 October 2020 amounted to £4940.00 and that this was the sum sought.

4. Intimation of the Case Management Discussion was attempted by Sheriff Officers on the Respondent on 22 October 2020 but was unsuccessful as the Officers were advised by neighbours that the Respondent was no longer resident and a new occupier had moved in. As a result, the Case Management Discussion was postponed and intimation of the proceedings was given by way of advertisement on the Housing and Property Chamber website.

The Case Management Discussion

5. A Case Management Discussion was held by teleconference on 11 January 2021. The Applicants were represented by Ms Yuliia Waiss of the Applicants representatives. The Respondent did not attend. The Tribunal noted the terms of the Certificate of Service of Advertisement provided by the Tribunal administration and being satisfied that proper intimation had been given proceeded in the absence of the Respondent.
6. Ms Waiss confirmed the parties had entered into a Private Residential Tenancy Agreement that commenced on 30 August 2019. The rent was £380.00 per month. Ms Waiss confirmed the Respondent had paid the first month's rent on 30 August 2019 but had made no further payments. The amount of rent due as at 1 October 2020 had been £4940.00. Ms Waiss went on to say that despite the Sheriff Officers report she believed the Respondent might still have been resident in the property on 16 November as this had been confirmed to her by the Applicants' letting agents. She said the letting agents had advised the Respondent that proceedings were ongoing. She said the current arrears amounted to £6080.00 and asked the Tribunal to grant an order for payment in that amount. The Tribunal explained that if the Applicants wished to increase the sum claimed then it would be necessary to intimate an amendment in accordance with Rule 14A. that being the case Ms Waiss asked the Tribunal to grant an order for payment in the sum of £4940.00.

Findings in Fact

7. The parties entered into a Private Residential Tenancy Agreement that commenced on 30 August 2019 at a rent of £380.00 per calendar month.
8. As at 1 October 2020 the Respondent was due rent amounting to £4940.00.

Reasons for Decision

9. The Tribunal was satisfied from the written documents provided and the oral submissions that the parties had entered into a Private Residential Tenancy agreement. The Tribunal was also satisfied that the Respondent had failed to pay any rent since 30 August 2019 and that as at 1 October 2020 the rent due by the Respondent to the Applicants amounted to £4940.00.

10. Although there was some question as to whether or not the Respondent was in fact continuing to reside in the property the Tribunal was entitled to accept the Sheriff Officers report that he was not and as proper intimation of the proceedings had been given by way of advertisement on the Housing and Property Chamber Website the Tribunal could proceed to determine the application in the absence of the Respondent.
11. The Tribunal was satisfied it had sufficient information before it to allow it to make a decision without a hearing.

Decision

12. The Tribunal finds the Applicants entitled to an order for payment by the Respondent to the applicants in the sum of £4940.00.

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.

**Graham Harding
Legal Member/Chair**

**11 January 2021
Date**