



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/20/1292

Re: Property at 23 Nicol Place, Broxburn, EH52 6GY (“the Property”)

Parties:

Mrs Jemma Heleena Begum, 46 Drum Brae South, Edinburgh, EH12 8SZ (“the Applicant”)

Ms Karyn Flynn, 23 Nicol Place, Broxburn, EH52 6GY (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of FIVE THOUSAND NINE HUNDRED AND NINETY-TWO POUNDS AND FIFTY PENCE (£5,992.50) STERLING

- Background
- 1. An application dated 17 March 2020 was submitted to the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a short assured tenancy agreement.

- The Case Management Discussion
2. A Case Management Discussion (“CMD”) took place on 15 October 2020 by tele-conference. Neither of the parties were present. The Tribunal had before it a copy letter dated 15 September 2020 addressed to each of the parties and which intimated the date and time of the CMD, together with appropriate dial-in instructions.
 3. In terms of Rule 27(2)(b) of the Rules, the Tribunal considered that it could not deal with the proceedings justly or fairly due to the Applicant’s failure to cooperate, and specifically their failure to participate in the CMD and advise the Tribunal of their position on the application. The Application was accordingly dismissed.
 4. Following the Decision of 15 October 2020 being issued to parties, the Applicant emailed the Tribunal to advise that she had been unaware of the CMD as she had not received any letter intimating the date of the CMD. Following investigation, it came to the Tribunals’ attention that the letter before the Tribunal had not in fact been issued to the Applicant either by post or email, due to an administrative error.
 5. The Tribunal considered matters in terms of the provisions of Section 43 of the Tribunals (Scotland) Act 2014 and Rule 39 of the Rules and determined that the decision to dismiss the application was made erroneously, and the application should proceed. Accordingly, a CMD should proceed on a date to be fixed thereafter.
 6. A CMD thereafter took place on 7 December 2020 by tele-conference. Both parties were personally present.
 7. The Applicant moved for the order for payment to be granted as sought, in the sum of £5,992.50. The parties had entered into a Short Assured Tenancy Agreement. The Respondent had failed to make payment of rent and had fallen into arrears of rent. The arrears of rent had continued to accrue since the lodging of the application, but as the Applicant has not submitted an application to increase the sum sought, she only sought payment of the sum as per the original application being £5,992.50.
 8. The Respondent admitted that she owed the sum of £5,992.50. No proposals for repayment were made.
- Findings in Fact
9. The Tribunal made the following findings in fact:
 - (a) The parties entered into a Short Assured Tenancy Agreement (“the Agreement”) which commenced 16 December 2016;
 - (b) In terms of Clause 4 of the Agreement, the Respondent was obliged to pay a monthly rent of £1200 to the Applicant;

(c) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £5,992.50.

- Reasons for Decision

10. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondent was obliged to make payment of rent in the sum of £1200 per month under Clause 4 of the Agreement and had failed to do so. She had accrued arrears amounting to £5,992.50 and which she admitted were lawfully due to be repaid to the Applicant.

11. Accordingly, the Applicant was entitled to the Order for Payment as sought.

- Decision

12. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of FIVE THOUSAND NINE HUNDRED AND NINETY-TWO POUNDS
AND FIFTY PENCE (£5,992.50) STERLING

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.

Fiona Watson

Legal Member/Chair

Date: 7 December 2020