



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/20/1620

Re: Property at 12 Bale Court, Cambuslang, Glasgow, G72 6ZN (“the Property”)

Parties:

Mr John Paul Maguire, c/o Lets Let, 37 Cadzow Street, Hamilton, ML3 6EE (“the Applicant”)

Mr Ryan John Harper, 12 Bale Court, Cambuslang, Glasgow, G72 6ZN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £575 plus interest at 4.1% per annum.

Background

1. This case was conjoined with FTS/HPC/EV/1619.
2. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £1150 plus interest at 4.1% per annum in terms of s16 of the Housing (Scotland) Act 2014.

Case Management Discussion

3. The Tribunal held a Case Management Discussion (“CMD”) on 19th October 2020 by teleconferencing. The Applicant was not present but was represented by Ms Kirsty Donnelly, solicitor, Bannatyne Kirkwood France & Co. The

Respondent was present and represented himself. Both parties were written to on 18th September asking for any representations to be sent to the Housing and Property Chamber no later than 9th October 2020. No representations were submitted.

4. The Applicant sought the order at the reduced amount of £575. The Applicant's solicitor informed the Tribunal that the Respondent had paid £575 on 2nd October 2020 which effectively paid the rent charge for September. She noted that the rent is due in advance and that it has been continually paid in arrears. She also noted that the lease states at clause 3.1 that arrears will be subject to an interest rate of 4% above base rate which is 0.1%. She further sought for the amount of the Order to be subject to an interest rate of 4.1% per annum.
5. The Respondent noted that there had been entered into a payment agreement to pay half the arrears in March 2020 and the other half in April 2020. He was then furloughed and struggled financially as a result of this income being reduced. He returned to work at the end of September 2020.
6. The Tribunal considered that the amount sought of £575 was due by the Respondent to the Applicant and an order should be granted for that amount with interest of 4.1% per annum.

Findings in Fact

7. The parties entered into a Short Assured Tenancy on 10th November 2017 which was thereafter continued on 10th May 2018 for a 6 months period until 10th November 2018 and continued on a month to month basis from that date. An AT5 was signed by both parties on the same date as the initial lease. The rent payments of £575 are due on the 10th day of each month.
8. The Housing and Property Chamber received an Application dated 30th July 2020.
9. The arrears due to the Applicant amounts to £575 as a payment was made on 2nd October of £575.

Reasons for Decision

10. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 1st January 2018 to 10th July 2020 in which payments have been missed to amount to £1150 in rent arrears. The Applicant's solicitor amended the sum due to £575 as a payment had been made on 2nd October 2020. The Tribunal was satisfied that there were no other issues of reasonableness before them. As a consequence, the Applicant is entitled to be granted the Order for payment of £575 plus interest of 4.1% per annum against the Respondent.

Decision

11. The Applicant is entitled to for an order of payment of £575 plus interest of 4.1% per annum by the Respondent. The Order was granted 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.


Gabrielle Miller

Legal Member/Chair

19th October 2020

Date