



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 and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/20/1818

Re: Property at 85 Hopepark Drive, Cumbernauld, Glasgow, G68 9FG (“the Property”)

Parties:

Mr Gavin Forsyth, 23 Kingsmuir Drive, Smithstone, Cumbernauld, Glasgow, G68 9FB (“the Applicant”) per his agents Messrs, Pollock, Fairbridge, Schiavone, Solicitors, 8th floor, Buchanan Tower, Buchanan Business Park, Stepps, Glasgow, G33 6HZ (“the Applicant’s Agents”)

Mrs Linda Johnstone, 85 Hopepark Drive, Cumbernauld, Glasgow, G68 9FG (“the Respondent”) per her agents Messrs Barton & Hendry, Solicitors, Fleming House, Tryst Road, Cumbernauld G67 1JW (“the Respondent’s Agents)

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment in the sum of FOUR THOUSAND THREE HUNDRED AND FORTY ONE POUNDS AND SEVENTY TWO PENCE (£4,341.72) STERLING be granted.

Background

1. By application received on 28 August 2020 (“the Application”), the Applicant’s Agents on behalf of the Applicant made an application to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Chamber”) for a payment order in terms of Section 16 of the Act in respect of rent arrears due and owing by the Respondent to the Applicant arising from a short assured tenancy agreement between the Parties. The Application comprised an application form, copy short assured tenancy agreement showing a monthly rent of £850.00, copy screenshots of texts between the parties relating to the debt and copy bank statement showing the last payment of rent by the Respondent to the Applicant being made on 10 February 2020.

2. On 7 September 2020, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 16 October 2020 at 10.00 by telephone conference call. The Application was intimated to the Respondent. The CMD was intimated to both Parties.
3. Prior to the CMD, the Applicant’s Agents lodged an amended rent statement showing the rent due as at the date of the CMD to be £4,341.72 with the Tribunal which was copied to the Respondent’s Agents

Case Management Discussion

4. The CMD took place on 16 October 2020 at 10.00 by telephone. The Applicant did not take part and was represented by Mr. Fairbridge of the Applicant’s Agents. The Respondent was not present and was represented by Mr. Cacace of the Respondent’s Agents.
5. Mr. Fairbridge confirmed the Order sought and explained that the rent due had reduced from that shown in the Application as housing benefit had been applied retrospectively.
6. Mr. Cacace submitted that the Respondent accepted the sum due and that she had fallen into arrears due to a combination of additional expense incurred by the recent and serious illness of her son and the impact of the Coronavirus pandemic on her personal finances. Mr. Cacace accepted that, although the Respondent would make arrangements to pay the sums due, no firm offer could be made at this time. The Tribunal advised that the Respondent should consider making a Time to Pay application to the Tribunal.

Findings of the Tribunal.

7. From the Application and the CMD, the Tribunal found the following facts to be established: -
 - i) There is a short assured tenancy agreement between the Parties;
 - ii) The monthly rent is £850.00;
 - iii) Rent arrears amounting to £4,341.72 are due and owing by the Respondent to the Applicant .

Decision of the Tribunal and Reasons for the Decision.

8. Having found the sum sought is due and owing , the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussionincluding making a decision” and so proceeded to make an order for payment in the sum of £4,341.72.

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.

K. M

Legal Member/Chair

16 October 2020

Date