



**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/20/2029

Re: Property at 3/3 Duke Street, Hawick, TD9 9PY (“the Property”)

Parties:

DAB Housing, The Long House, Dunsyre Road, Newbigging, ML11 8NA (“the Applicant”)

Mr Scott Loudon, Unknown, Unknown (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of Four Thousand Seven Hundred and Forty Five Pounds only (£4745.00) be made in favour of the Applicant and against the Respondent.

Background

This is an application for a payment order in terms of Rule 70 of the first-tier Tribunal rules of procedure. The application was first lodged with the Tribunal on 23 September 2020 and was accepted by the Tribunal on 22 October 2020. The matter first came to a case management discussion on 9 December 2020. At that time neither party was in attendance and a new case management discussion was fixed for 19 February 2021 at 10 am. The case management discussion was further continued on that date as there was some doubt as to whether the application and supporting papers had been served on the Respondent as he had vacated the property sometime late in January 2021 and had been living at a different address for some time before that due to a flood at the property. The Applicant made attempts to trace the Respondent but was unable to do that and applied to have the application served by advertisement. The application

was served in terms of Rule 6A of the tribunal rules of procedure on the on the Tribunal website from 20 April 2021 until 24 May 2021.

The Case Management Discussion

At the case management discussion on 24 May 2021 Mr Barry Haig attended for the Applicant. He is a partner in DAB Housing, the Applicant. There was no appearance by or on behalf of the Respondent. Mr Haig asked the Tribunal to proceed in his absence and the Tribunal was prepared to proceed in the Respondent's absence given that the terms of Rule 6A, service by advertisement of the application and papers had been complied with.

At the case management discussion on 24th of May 2021 the Tribunal had sight of the application, a rental agreement for the property, a letter of authority from a joint owner of the property authorising Mr Haig to proceed on behalf of the Applicant, a DWP mandate, a rent payment schedule up to and including 1 September 2020 and a number of emails from Mr Haig.

The parties entered into a tenancy agreement at the property with effect from 17 July 2017 for a period of six months and this agreement continued on a six monthly basis in the absence of either party giving written notice to terminate the agreement. The monthly rent payable in terms of the agreement was £350 payable in advance. At the time that the tenancy was agreed the Applicant understood that the Respondent was working. Rent arrears started to accumulate early on in the tenancy and continued to accrue throughout 2018 and into 2019. No rent had been paid by the Respondent at the property since 16 August 2019. Mr Haig advised that when the arrears had started to accrue he had made a number of attempts to contact the Respondent to try and deal with the arrears. He had very little reply from him. Occasionally he would make a small payment towards the arrears or answer by indicating that he was working night shift. Mr Haig had tried to make arrangements with him by way of a plan to deal with the arrears but he did not engage with efforts either by telephone, letter or attending at the premises.

Mr Haig for the Applicant was seeking a payment order to take account of rent arrears up to and including 1 September 2020. Sometime after September 2020 there had been a flood at the property and the Respondent had been staying at alternative accommodation provided by an insurance company. He had still been accessing the property to which the application relates after that date. Mr Haig advised the Tribunal that the property was not currently habitable and he was awaiting work being done in consultation with an insurance company.

Mr Haig also indicated that at no time was he ever aware of the Respondent being in receipt of benefit or the rent arrears being due to any delay or failure in the payment of any benefit. Mr Haig believed the Respondent was working during the tenancy but could not say that he was working the entire period of the tenancy before he appeared to have completely vacated the property sometime in late January 2021.

The Tribunal was satisfied that had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

1. The Applicant and the Respondent entered into a tenancy agreement at the property with effect from 17 July 2017.
2. The initial rental agreement was for a period of six months and this continued on a rolling six monthly basis in the absence of either party giving notice to terminate it.
3. The monthly rent payable in advance was £350.
4. Rent arrears at the property started to accrue early on in the tenancy agreement and continued through 2018, 2019 and 2020.
5. Efforts by the Applicant to engage with the Respondent to deal with the arrears were unsuccessful.
6. No rent has been paid by the Respondent at the property since August 2019.
7. Rent arrears as of 1 September 2020 stand at £4745 only.
8. Sometime after September 2020 due to a flood at the property the Respondent was required to live at an alternative address provided by an insurance company.
9. The Respondent appears to have completely vacated the property to which the application relates sometime late in January 2021.
10. Rent arrears in the sum of £4745 up to September 1st 2020 in respect of the property are lawfully due by the Respondent to the Applicant.

Reasons for Decision

The Tribunal was satisfied that rent arrears at the property had accrued over a substantial period of time and efforts to engage with the Respondent in respect of the payment of these arrears had been unsuccessful. It appeared reasonable to grant a payment order.

Decision

The Tribunal granted a payment order in the sum of £4745 only in favour of the Applicant and 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.

Valerie Bremner

Legal Member/Chair

24.5.21

Date