



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

Chamber Ref: FTS/HPC/CV/20/2124

Re: Property at 27 Glebe Park, Strathmiglo, Fife, KY14 7QF (“the Property”)

Parties:

Mr Iain Crockett, Mrs Caroline Crockett, Ardgour, Main Road, Gateside, Cupar, Fife, KY14 7ST (“the Applicant”)

Mr Barry McAuley, 27 Glebe Park, Strathmiglo, Fife, KY14 7QF (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £3,220 be made in respect of rent arrears due by the Respondent to the Applicant.

- **Background**

1. This was the second case management discussion (CMD) in respect of an application by the Applicants dated 10th August 2020 for an order for payment in respect of arrears of rent in relation to the lease of the Property by the Applicants to the Respondent.

The following documents were lodged with the application:-

- A copy of the Tenancy Agreement dated 16th July 2018
 - Rent Statement from 17th February 2020 to 16th September 2020
2. The Respondent had been served a copy of the application and the papers relating thereto originally by Sheriff Officers who served the papers by letter box delivery on 22nd October 2020. Notification of this continued CMD was

sent to the Respondent by recorded delivery. The Tribunal was satisfied that the Respondent has been given fair notice and the Tribunal therefore felt it was appropriate and fair to continue in his absence.

3. Prior to the first CMD the Applicants had lodged an updated rent statement showing the sum outstanding as £2,760.
4. Mrs Crockett confirmed that the Respondent was the tenant in the Property let by herself and her husband and that arrears had started to accrue from June 2020 and were currently £2,760. She advised that she had sent to the Tribunal a revised rent statement which showed an increase from the sum originally sought which was for £1,840 and advised they were looking for the increased sum of £2,760 which includes the further two months of October and November that have not been paid. She further advised the letting agent that manages the Applicant's property had written and tried to contact the Respondent on many occasions and he had offered twice to start a payment plan but did not follow up with any payments.
5. Mrs Crockett advised that her agent has now served a Notice to Leave on the Respondent but the period of notice does not expire until next year.
6. The revised sum had not been intimated to the Respondent in advance of sending it to the Tribunal and the legal member advised that without intimating a proposed amendment to the application of an increase in the sum sought giving at least 14 days' notice to the Respondent the Tribunal could not consider the same..
7. The Tribunal granted an adjournment to a new CMD to allow the Respondent time to consider the revised rent statement sent to him on 24th November and to allow the Applicants to advise if any further sums were due provided they intimated any further increase in the sum sought at least 14 days in advance. The CMD was adjourned to 11th January 2021 and the Respondent was invited to attend the next CMD and advised to lodge any written response at least 7 days before the 11th January 2021 if he wished to lodge any written response.

CMD

8. The CMD proceeded today by way of teleconference due to the continued requirement at the current time for social distancing. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. The Applicants both attended on the teleconference but the Respondent did not attend nor was he represented despite the Tribunal allowing an additional 10 minutes for him to phone in.
9. On 16th December 2020 the Applicant had lodged a further rent statement on showing the sum due as £3,220 being a further month's rent which fell due on 16th December.
10. Mrs Crockett again confirmed that no further sums have been received by the Respondent, that he is still living in the Property and has not been in touch with the Applicant's agents who have sent him reminders and accounts regularly requesting payment of the rent. His last contact, Mrs Crockett advised, was in August or September 2020 when he offered a payment plan but then did not pay anything. She confirmed that the letting agents had carried out an inspection of the Property in December but the tenant was not present although it was clear he was still living in the Property.

11. Mrs Crockett confirmed that she and her husband, the Applicants, were seeking an order for the sum currently due and the Legal Member explained that if there were any further rent arrears this would have to be made in a separate application if and when they became due.

Findings in Fact

1. The parties entered into a lease of the Property which commenced on 16th July 2018 and continues on a month to month basis unless terminated.
2. The Rent due in terms of the lease is £460 monthly payable monthly in advance on 16th of each month.
3. The Respondent is still living in the Property and the lease is continuing.
4. The Respondent has failed to pay the rent due from and including the 16th June to date.
5. The rent outstanding at 11th January 2021 is £3,220.
6. No further payments have been made towards the rent although requests have been made for payment.

• Reasons for Decision

7. The parties entered into a lease where the Respondent has leased the Property from the Applicant from 16th July 2018 and has agreed to pay £460 every month in rent.
8. The lease is continuing although the Applicants have served a Notice to Leave it does not expire until later this year.
12. The Applicant has intimated a request to amend the sum sought to allow them to claim rent due up to 16th December 2020 and has complied with Rule 14A of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 which states that any amendment to the application including to the sum claimed must be intimated at least 14 days prior to a case management discussion or hearing by intimating such amendment more than 14 days before today's discussion.
9. The Respondent has failed to make any payment of rent since June 2020. The Applicant is entitled to recover rent lawfully due.
10. The Respondent has made no appearance at either this or the previous CMD held to discuss this application and has made no written representations.
11. The Tribunal accepts the written evidence and verbal statements made by the Applicant. The Tribunal found Mrs Crockett clear and credible in her evidence that the rent outstanding and due by the Respondent amounts to £3,220.
12. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

• Decision

An order for payment of the sum of £3,220 is made.

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.

Jan Todd
Legal Member/Chair

11th January 2021
Date