



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/21/0837

Re: Property at Cadiz Street 12 Flat 3, Edinburgh, EH6 7BH (“the Property”)

Parties:

Mr Edwin Wong, 9 Stocksfield Avenue, Newcastle, NE5 2DX (“the Applicant”)

Miss Eve Brown, 1/2 Lady Nairne Crescent, Edinburgh, EH8 7PE (“the Respondent”)

Tribunal Members:

Ms H Forbes (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 should be granted in favour of the Applicant and against the Respondent in the sum of £4791.

Background

1. This is an application dated 6th April 2021, made in terms of Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicant’s representative lodged a copy of a short assured tenancy agreement in respect of the Property that commenced on 30th September 2014, a rent statement, and copy letters to the Respondent. The Applicant was seeking an order for payment in the sum of £6071.
2. By email dated 4th May 2021, the Applicant’s representatives informed the Housing and Property Chamber that the tenant had left the Property, and that the rent arrears had reduced due to the allocation of funds held at the start of the tenancy. A new rent statement was provided, showing arrears amounting to £4791.
3. Intimation of the application and the forthcoming Case Management Discussion was made upon the Respondent by Sheriff Officers on 21st May 2021.

Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 22nd June 2021. The Applicant was not in attendance and was represented by Ms Hayley Shaw and Ms Penny MacKenzie, Grant Property Solutions Ltd. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
6. The Applicant's representatives asked the Tribunal to grant an order for payment in the sum of £4791. There has been no correspondence from the Respondent. The tenancy ended on 30th April 2021. The outstanding rent arrears were £6071; however, the Respondent paid two month's rent in lieu of a guarantor agreement at the start of the tenancy and that has been credited to the account, thus reducing the arrears.
7. Responding to questions from the Tribunal, the representatives confirmed that the tenancy deposit of £840 is lodged with an approved tenancy deposit scheme and is under adjudication. It is not expected that any of the deposit will be applied to the rent arrears, due to issues with the way in which the Property was left.

Findings in Fact

8.
 - (i) Parties entered into a short assured tenancy agreement in respect of the Property commencing on 30th September 2014 with a monthly rent of £640. The rent increased each year. The tenancy ended on 30th April 2021.
 - (ii) Rent lawfully due in terms of the tenancy agreement between the parties has not been paid by the Respondent.
 - (iii) The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

9. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

10. An order for payment is granted in favour of the Applicant and against the Respondent in the sum of £4791.

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.

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