



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/CV/21/1012

Re: Property at 15 Menstrie Road, Tullibody, FK10 2RF (“the Property”)

Parties:

Finlarig Ltd, Finlarig Ltd, Craigleith, Laurelbank, Menstrie, FK11 7HX (“the Applicant”)

Ms Florica Panciu, 15 Menstrie Road, Tullibody, FK10 2RF (“the Respondent”)

Tribunal Members:

Nicola Weir (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 by the Respondent of the sum of £1,690 should be made in favour of the Applicant.

Background

1. By application submitted on 19 April 2021, the Applicant sought a payment order in the sum of £1,690 against the Respondent in respect of rent arrears incurred in respect of the Property.
2. Supporting documentation was submitted in respect of the application, including a Rent Statement.
3. A Legal Member of the Tribunal with delegated powers from the Chamber President subsequently issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 5 May 2021. A Case Management Discussion (“CMD”) was assigned for 14 June 2021 at 2pm. Notification of the CMD and copies of the case papers were served on the Respondent by Sheriff Officer

on 13 May 2021. No written representations were lodged by the Respondent prior to the CMD. The Applicant's representative emailed the Tribunal Administration on 8 June 2021 confirming that the arrears remained the same as they were when the application was lodged and attaching an up to date Rent Statement.

Case Management Discussion

4. On 14 June 2021, the Applicant's representative, Mrs Johnstone of Northwood Central UK Ltd, participated in the CMD. Ms Donnelly, another employee of Northwood was also in attendance as an observer only and did not participate in the CMD. The Legal Member delayed the start of the Case Management Discussion for a few minutes after 2pm to see if the Respondent joined but she did not do so.
5. After introductions and introductory remarks by the Legal Member, the Applicant's representative addressed the Application and confirmed that an order for payment in the sum of £1,690 was still being sought, in respect of rent arrears. Reference was made to the updated Rent Statement. The Applicant's representative confirmed that they had taken over the management of the tenancy from Forth Estates in April 2019. The Respondent's rent payments were a little erratic and have really always been running a month behind. Some payments have been missed and although the monthly rent in terms of the lease of £530 is being paid again at the moment, the Respondent has done nothing to address the rent arrears which have accrued, despite many attempts by Northwood to get a payment plan in place. Correspondence has been lodged with the application confirming this. The Applicant's representative explained that the Respondent does not really engage with them. Her English is not particularly good and most communication is made with the Respondent's daughter and son-in-law. The Respondent is understood to visit family in Italy from time to time. Other than that, they do not know much about her financial circumstances or income situation. She is supposed to reside at the Property alone but, according to neighbours, the daughter and son-in-law may reside there too and there were 4 toothbrushes in the bathroom when they carried out the last inspection, pre-Covid. In response to questions from the Legal Member, the Applicant's representative confirmed they are certain the Respondent still resides there, there has been no contact since the Tribunal proceedings were raised and no further payments made towards the arrears since. The payments of £530 per month which have resumed only cover the monthly rent due and do not reduce the arrears which have accrued. The last payment received was on 13 May 2021, as per the updated Rent Statement, and the amount outstanding as at today's date in respect of rent arrears is £1,690.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.

2. The Respondent is the sole tenant of the Property by virtue of a Private Residential Tenancy commencing on 1 August 2018.
3. The rent in terms of the tenancy is £530 per calendar month.
4. The rental payments have been erratic, with payments running behind and payments missed.
5. Rental payments were missed in September, October and November 2020 and although the rental payments have resumed, the arrears have not been addressed.
6. The amount owing in rent arrears when this application was submitted to the Tribunal on was £1,690 and this figure is still outstanding.
7. No explanation has been given for the non-payment of the rent arrears by the Respondent, nor attempts to resolve the issue.
8. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this application. The Respondent did not attend the CMD.
9. The sum of £1, 690 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy and has not been paid by the Respondent.

Reasons for Decision

1. The Respondent did not submit any written representations to the Tribunal and did not attend the CMD, having been properly and timeously notified of same.
2. The Legal Member was further satisfied from the information contained in the application and supporting documentation, together with the oral submissions made by the Applicant's representative at the CMD that the balance of the sum claimed in unpaid rent of £1,690 is due and resting owing by the Respondent.
3. The Legal Member concluded that there being no information to the contrary from the Respondent, the matter did not require to go to an evidential hearing and that an order for payment in that sum should be made.

Decision

The Legal Member accordingly determines than an order for payment by the Respondent of the sum of £1,690 should be made in favour of the Applicant.

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.

N Weir

Legal Member/Chair _____

14 June 2021
Date