



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/21/1693

Re: Property at 175 Townhill Road, Hamilton, ML3 9RW (“the Property”)

Parties:

Mrs Lindsay Anne Gibson, Mr Brian Gibson, 193 Dalrymple Street, Girvan, KA26 9BG (“the Applicants”)

Miss Kerry-Ann Taggart, 27 Hillhouse Crescent, Hamilton, ML3 9TE (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This was an application for a payment order submitted on 14th July 2021 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants sought payment of arrears in rental payments in relation to the Property from the Respondent of £2,210.00, and provided with their application copies of a short assured tenancy agreement and a rent arrears statement.

The short assured tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Housing (Scotland) Act 1988*, and the procedures set out in that Act had been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 15th September 2021, and the Tribunal was provided with the execution of service.

Case Management Discussion

A Case Management Discussion was held at 14.00 on 20th October 2021 by Tele-Conference. The Applicants did not participate, but were represented by Mrs Barclay, letting agent. The Respondent did not participate, nor was she represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Mrs Barclay with reference to the application and papers to grant an order for payment of the sum of £2,210.00. Mrs Barclay explained that the tenancy ended in March 2019, and referred to the rent arrears statement provided noting the rent arrears were £2,410.00. The sum sought in this application was an error, but Mrs Barclay explained that the Applicants were content to seek only the sum of £2,210.00 sought.

Statement of Reasons

Section 16 of the *Housing (Scotland) Act 2014* provides as follows:

“16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments.”

Accordingly, the Tribunal has jurisdiction in relation to claims by a landlord (such as the Applicants) for payment of unpaid rental against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the rent arrears statement, and Mrs Barclay's submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicants in respect of rent arrears of £2,210.00 as sought. Clause 4 of the lease agreement provided that rent of £550.00 per month is payable in advance. Accordingly, the Tribunal made an order for payment of the sum sought.

Decision

In these circumstances, the Tribunal made an order for payment by the Respondent to the Applicants of the sum of £2,210.00.

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.



Neil Kinnear

Legal Member/Chair

20 October 2021

Date