



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/21/2145

Re: Property at 42 (1F2) Hawthornvale, Edinburgh, EH6 4JW (“the Property”)

Parties:

Janet Saparamadu, C/O DJ Alexander Lettings Limited, 1 Wemyss Place, Edinburgh, EH3 6DH (“the Applicant”)

Mr Scott Barclay, 42 (1F2) Hawthornvale, Edinburgh, EH6 4JW (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £2820 (TWO THOUSAND EIGHT HUNDRED AND TWENTY POUNDS) in favour of the Applicant.

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £2820 in terms of s16 of the Housing (Scotland) Act 2014.
2. The Tribunal had before it the following documents:
 - a) Application dated 6th September 2021;
 - b) Rent account for the period 3rd April 2021 to 2nd October 2021;
 - c) Tenancy agreement between the parties with the commencement of the tenancy on 3rd October 2014 for a 12 months period until 2nd October 2015 and on a month to month basis thereafter.
 - d) Form AT5 signed by the parties on 3rd October 2014.
 - e) Title deeds numbered MID173183

3. On 25th September 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 3rd November 2021 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 19th October 2021.
4. On 28th September 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Citation dated 28th September 2021.

Case Management Discussion

5. A CMD was held on 3rd November 2021 at 2pm by teleconferencing. The Applicant was represented by Ms Dayna Greeney, DJ Alexander Lettings Limited. The Applicant did not attend. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing.
6. Ms Greeney told the Tribunal that she believed that the Respondent was working. There has been no Housing Benefit documentation or payments sent to her. She is not aware of any pending Housing Benefit issues. The Respondent is still in the Property. A Notice to Quit has been issued and expires in December 2021. The Respondent is still not paying the rent. The Respondent contacted the Representatives in June stating that he was going to make a payment plan. Ms Greeney was unable to contact him after that to enter into an agreement. She noted that he did make payments of £50 per week from 20th May 2021 to 22nd July 2021. This was not sufficient to cover the rent charge and did not address the arrears. The billing system allocated all of these payments to the oldest outstanding amount. This resulted in April 2021 arrears being reduced by the weekly payments leaving £95 due for that month. Ms Greeney was not aware of any other issues of reasonableness. The amount currently due is £3910.

Findings in Fact

7. The parties entered into a Short Assured Tenancy with the commencement of the tenancy on 3rd October 2014 for a 12 months period and continued on a month to month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £545 are due by the 3rd day of each month.
8. The Housing and Property Chamber received an Application dated 6th September 2021.
9. The Respondent has persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £3910, beyond that which was sought in the application of £2820.

10. There are no outstanding Housing Benefit issues.

11. The arrears due to the Applicant amounts to £2820.

Reasons for Decision

12. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 3rd April 2021 to 2nd October 2021 in which payments have been missed to amount to £2820 in rent arrears. The Respondent has continued not to pay the rent causing it to rise to £3910. The Tribunal was satisfied that there were no other issues of reasonableness before it. The Tribunal decided that the Respondent had persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £2820 against the Respondent.

Decision

13. The Applicant is entitled to for an order of payment of £2820 by the Respondent. The Order was granted 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.

Gabrielle Miller

Legal Member/Chair

3rd November 2021

Date