



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/21/2201

Re: Property at 77B Nelson Street, Largs, KA30 9AB (“the Property”)

Parties:

Mr John Caven, 28 Parklands, Coylton, KA6 6NN (“the Applicant”)

Mr Frank Hodgart, 77B Nelson Street, Largs, KA30 8LN (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant:

Sum of ONE THOUSAND FIVE HUNDRED AND NINETY-ONE POUNDS AND SIXTY-TWO PENCE (£1,591.62) STERLING

The First-tier Tribunal for Scotland (Housing and Property Chamber) made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, in the following terms:

The respondent is required to pay the sum of ONE HUNDRED POUNDS (£100) STERLING per month until the full amount has been paid. The first payment must be made no later than 14 days after intimation of the Order.

- Background
- 1. An application was submitted to the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

("the Rules"), seeking a payment order against the Respondent in relation to rent arrears accrued under a short assured tenancy agreement.

- The Case Management Discussion
2. A Case Management Discussion ("CMD") took place on 17 December 2021 by tele-conference. The Applicant was represented by Mr Fraser of Wallace Hodge & Co Ltd. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 15 November 2021. The Tribunal was accordingly satisfied that the Respondent had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondent's absence.
 3. Prior to the CMD, the Respondent submitted a Time to Pay Direction Application in terms of which he admitted the sum claimed and proposed repayment at the rate of £100 per month.
 4. The Applicant's representative advised that the Time to Pay Direction Application was accepted. The arrears had decreased slightly since the application was raised and stood at £1,591.62. The Respondent was still resident in the property and had recommenced payments of ongoing rent.
- Findings in Fact
5. The Tribunal made the following findings in fact:
 - (a) The parties entered into a Short Assured Tenancy Agreement ("the Agreement") which commenced 20 June 2016;
 - (b) In terms of Clause 2(a) of the Agreement, the Respondent was obliged to pay a monthly rent of £385 to the Applicant;
 - (c) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £1,591.62.
- Reasons for Decision
6. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondent was obliged to make payment of rent in the sum of £385 per month under Clause 2(a) of the Agreement and had failed to do so. He had accrued arrears amounting to £1,591.62 and which fell lawfully due to be repaid to the Applicant. The Tribunal was satisfied that the instalment proposal set out in the Respondent's Time to Pay Direction Application was reasonable.
- Decision
7. The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant:

Sum of ONE THOUSAND FIVE HUNDRED AND NINETY-ONE POUNDS AND SIXTY-TWO PENCE (£1,591.62) STERLING

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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.

Fiona Watson

Legal Member/Chair

Date: 17 December 2021