



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/21/2382

Re: Property at 30B High Street, Tranent, EH33 1HQ (“the Property”)

Parties:

Mr Mark Fielding, 35 Burnside, Haddington, EH41 4ER (“the Applicant”)

Mr Simon Livingston, Miss Vicky Maitland, UNKNOWN, UNKNOWN (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £9710 plus interest at 1% per annum.

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 £9710 plus interest in terms of s16 of the Housing (Scotland) Act 2014.
2. The Tribunal had before it the following documents:
 - a) Application dated 1st October 2021.
 - b) Tenancy agreement dated 20th November 2013 for a 6 months period until 25th May 2014 and on a month to month basis thereafter.
 - c) Form AT5 signed by the parties on 20th November 2013.

3. A CMD was originally set for 8th December 2021. Sheriff Officers were not able to effect service of the Tribunal papers causing the CMD to be postponed to 11th January 2022 to allow Service by Advertisement.
4. On 24th November 2021 all parties were written to with the date for the CMD of 11th January 2021 at 10am by teleconferencing. Service by Advertisement was undertaken upon the Respondent from 24th November 2021.

Case Management Discussion

5. A CMD was held on 11th January 2022 at 10am by teleconferencing. The Applicant was represented by Ms Kirsty Morrison, paralegal, TC Young. The Applicant did not attend. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make representations in advance of the hearing.
6. Ms Morrison informed the Tribunal that the Respondent last contacted the Applicant's letting agent on or around 9th October 2021 to confirm that the Property had been vacated. There has been no offer of payment. There are no known Housing Benefit issues. There are no known issues of reasonableness. Ms Morrison had queried with the Applicant regarding the deposit. It had transpired that a deposit had not been paid so nothing further was able to be deducted from the arrears. The current balance is £9946.71 which is a further increase on the sum sought to take account of the pro rata amount of rent due to the date the tenancy was vacated.
7. Ms Morrison requested interest be granted at a rate of 2-3%. The Tribunal noted that the lease did not stipulate an interest payment. Given that the base rate is 0.25% the Tribunal considered it fair and proportionate to grant interest at 1% per annum.

Findings in Fact

8. The parties entered into a Short Assured Tenancy on 20th November 2013 for a 6 months period until 25th April 2014 and 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 £800 per month was due in advance each month.
9. The Housing and Property Chamber received an Application dated 1st October 2021.
10. The Respondents have persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £9946.71, beyond that which was sought in the application.
11. There are no outstanding Housing Benefit issues.
12. The Applicant seeks £9710 which is lawfully due to him.

Reasons for Decision

13. The Respondents have 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 20th November 2013 to 2nd September 2021 in which payments have been missed amounting to £9710 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before it. The Tribunal decided that the Respondents have persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £9710 plus interest of 1% per annum against the Respondents.

Decision

14. The Applicant is entitled to an order of payment of £9710 plus interest of 1% per annum by the Respondents. The Order was granted against the Respondents.

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

11th January 2022

Legal Member/Chair

Date