



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 51 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/2626

Re: Property at 3 Hillpark Avenue, Blackhall, Edinburgh, EH4 7AT (“the Property”)

Parties:

Mr Stewart Swan, Calle Puerto Cabras, Residencial Iris Fase 1, Cases 12, Playa Blanca, 35580 Lanzarote, Spain (“the Applicant”)

Mr Waseem Abuaglain, 3 Hillpark Avenue, Blackhall, Edinburgh, EH4 7AT (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

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

Background

This Application called for a Hearing following on from a Case Management Discussion (CMD) that took place on 26 January 2022. The Respondent had attended that CMD and made reference to repair issues which the Respondent said ought to be taken into account and which he said provided a defence to the Application. The Tribunal fixed a Hearing and also made a Direction obliging the Respondent to lodge detailed representations setting out his position and the precise basis of the defence to be relied upon. The Respondent was also advised to pay close attention to the Direction made. The Applicant had also indicated that they would seek to amend the sum claimed to a more up-to-date figure in advance of the Hearing. The Applicant subsequently

submitted such an Application to amend the sum claimed to £11,379.99. Nothing was however received from the Respondent and no attempt was made to comply with the Direction made.

The Hearing.

The Application called for a Hearing by video call on the Webex platform at 10 am on 17 March 2022. The Applicant joined by phone call whilst his solicitor, Ms Ridley from Blacklocks was present on the video call. There was no appearance by or on behalf of the Respondent.

The Respondent had previously consented to receive notifications from the Tribunal by email and the date and information about how to join the Hearing had been properly sent to the Respondent. Considering that the Respondent had also failed to comply with the Direction, considered that it was in the interests of justice to proceed in the Respondent's absence. The Tribunal also allowed the sum claimed to be amended to £11,379.99.

Having heard from Ms Ridley and considered the Application, the Tribunal made the following findings in fact:

Findings in Fact

- I. *The parties entered into a tenancy in respect of the Property which commenced on 1 July 2019;*
- II. *The Applicant was the landlord and the Respondent was the tenant;*
- III. *The contractual monthly rent was £1,350.00;*
- IV. *The Respondent fell into rent arrears;*
- V. *As at today's date the Respondent has rent arrears in the sum of £11,379.99 which is lawfully due to the Applicant but which remains unpaid;*
- VI. *There has been no justification provided by the Respondent that might present any defence to the Application;*

Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and make a Payment Order in favour of the Applicant in the sum of £11,379.99.

Ms Ridely then invited the Tribunal to make an award of expenses in favour of the Applicant. The Tribunal considered Rule 40 and concluded that the Respondent's actions did not constitute "*unreasonable behaviour*" such as might justify such an award being made. The Tribunal made no order regarding expenses.

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.

Andrew McLaughlin

17th March 2022

Legal Member/Chair

—
Date