



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/0391

Re: Property at 49 Wellington Street, Wishaw, ML2 7EU (“the Property”)

Parties:

Mr Duncan Vaux, 250 Myton Road, Warwickshire, CV34 6PT (“the Applicant”)

Mr Darren Knox, Mr John Kennedy, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant the Application and made a Payment Order in favour of the Applicant against the Respondents in the sum of £11,020.00.

The Applicant seeks a Payment Order for rent arrears claimed from the Respondents as lawfully due but allegedly unpaid. The Application is accompanied by rent statements detailing the sums allegedly due. The First Respondent, Mr Darren Knox, is the tenant in respect of a Private Residential Tenancy between the parties and the Second Respondent, Mr John Kennedy, is guarantor for the First Respondent’s obligations in respect of that tenancy agreement.

Both of the Respondent’s whereabouts could separately not be determined by Sheriff Officers and permission had been granted for service on both of the Respondents of the Application by advertisement on the Tribunal website. Service in this manner had subsequently been competently effected.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10am on 1 September 2022. The Application called alongside a related Application in respect of an Eviction Order. The Applicant was represented by Ms Barclay of Happy Lets. There was no appearance by or on behalf of the Respondents. Service of the Application having been competently effected, the Tribunal decided to proceed in the absence of the Respondents. Having heard from Ms Barclay and having considered the Application and attachments, the Tribunal made the following findings in fact.

Findings in Fact

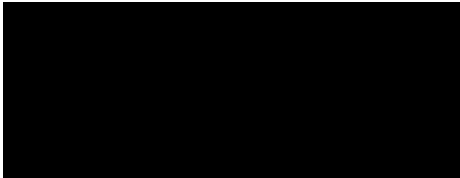
- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent on a Private Residential Tenancy which commenced on 26 July 2019. The Second Respondent, Mr John Kennedy was guarantor under the tenancy for the First Respondent's obligations including payment of rent;*
- II. *The contractual monthly rent was £450.00;*
- III. *The First Respondent fell into rent arrears;*
- IV. *The First Respondent has almost certainly vacated the Property and his whereabouts cannot reasonably be established. He has changed the locks in the Property without consent and refused to engage at all with the Applicant as to why he has failed to pay the contractual monthly rent;*
- V. *The Respondent has offered no explanation at any point about the cause of his financial difficulties or personal circumstances;*
- VI. *Both Respondents are jointly and severally liable for the payment of rent to the Applicant;*
- VII. *It is necessary and reasonable to make the Payment Order.*

Reasons for Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and made a Payment Order against both Respondents in the sum of £11,020.00.

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.



Legal Member: Andrew McLaughlin

Date: 01/09/2022