



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/0570

Re: Property at Flat 1 22 Halmyre Street, Edinburgh, EH6 8QD (“the Property”)

Parties:

Places for people scotland, touchstone, 2 crescent office park, clarks way, bath, BA2 2AF (“the Applicant”)

Mr Konrad Seweryn Iwan, Katarzyna Ziemnik, Flat 1 22 Halmyre Street, Edinburgh, EH6 8QD (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Sixteen thousand three hundred and ninety five pounds and forty eight pence (£16,395.48) Sterling against the Respondents

- 1 By application dated 23 February 2022, the Applicant sought an order for payment of rent arrears in the sum of £14,853.77 against the Respondents. In support of the application the Applicant provided:-
 - (i) Tenancy Agreement between the parties dated 17th May 2012;
 - (ii) Rent Statement dated 14th February 2022; and
 - (iii) Letter to Respondents dated 23rd February 2022 regarding the pre-action requirements.
- 2 By Notice of Acceptance of Application the Legal Member of the Tribunal, with delegated powers from the Chamber President, determined that there were no grounds to reject the application. A Case Management Discussion was therefore assigned for 20 May 2022 to take place by teleconference due to the ongoing restrictions arising from the Covid-19 pandemic.

- 3 The application paperwork was served upon the Respondents by Sheriff Officers on 5 April 2022. The paperwork contained notification of the date and time of the Case Management Discussion together with instructions for joining the teleconference.
- 4 By email dated 5 April 2022 the Applicant submitted an up to date rent statement and requested amendment of the sum claimed to reflect the increased arrears of £16,395.48.

Case Management Discussion

- 5 The Case Management Discussion took place on 20 May 2022. The Applicant was represented by Mr Caldwell, Patton and Prentice Solicitors. The Respondents were not present.
- 6 The Tribunal explained the purpose of the Case Management Discussion. It was noted that the application paperwork had been served upon the Respondents by Sheriff Officers, with details for joining the case conference. Accordingly the Tribunal was satisfied that the notification requirements had been complied with and determined to proceed with the Case Management Discussion in their absence. The Tribunal further noted that the request for amendment of the sum claimed had been made timeously and intimated to the Respondents.
- 7 Mr Caldwell confirmed that the Applicant sought an order for payment in the sum of £16,395.48, with reference to the request for amendment. He confirmed that the Respondents had cleared arrears on the rent account in December 2019 with a payment of £4000 however since then payments had been irregular and arrears had continued to accrue. Since June 2020 only two payments had been made, with the last on 25th November 2021 in the sum of £600.

Findings in Fact

- 8 The parties entered into a Private Residential Tenancy Agreement which commenced on 17th May 2012.
- 9 In terms of Clause 3 of the said Tenancy Agreement the Respondents undertook to make payment of rent at the rate of £595 per month.
- 10 As at the 1st April 2022, arrears of rent in the sum of £16,395.48 are outstanding.
- 11 The Respondents are liable to pay the sum of £16,395.48 to the Applicant under the terms of the tenancy agreement between the parties.
- 12 Despite repeated requests the Respondents have refused or delayed to make payment of the sum due.

Reasons for Decision

- 13 The Tribunal was satisfied that it could make a determination of the application at the Case Management Discussion and that to do so would not be detrimental to the parties. The Respondents had received proper notification of the application paperwork and had been given the opportunity to participate in the proceedings but had chosen not to do so.
- 14 Based on its findings in fact, the Tribunal was satisfied that the Respondents were liable to pay the sum of £16,395.48. The Tribunal accepted the evidence of the Applicant that the Respondents had a contractual obligation to make payment of rent at the rate of £595 per month and had failed to do so for a significant period of time which had led to the arrears accruing. There was nothing before the Tribunal to contradict the position put forward by the Applicant in that regard.
- 15 The Tribunal therefore made an order for payment against the Respondents in the sum of £16,395.48.

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.

R. O

20 May 2022

Legal Member/Chair

Date