



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to an Assured Tenancy under Rule 70 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/22/0679

Re: 22 Anderson Crescent, Ayr, KA7 3RN ("the Property")

Parties:

David Hunter and Elaine Hunter residing at 20 Ronaldshay Crescent, FK3 9JH ('the Applicants and Landlords')

Norman Fraser, Solicitor, Wallace Hodge & Co Limited ('the Applicant's Representative')

Lisa Moseley residing at 22 Anderson Crescent, Ayr, KA7 3RN ('the Respondent and Tenant')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ('the Tribunal')

Tribunal Member: Jacqui Taylor (Legal Member) Helen Barclay (Ordinary Member)

Background

1. The Applicants submitted an application to the Tribunal for payment of arrears of rent in the sum of £2677.75 being the sum outstanding as at 25th February 2022.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicants were:

2.1 A copy of the Tenancy Agreement.

2.2 A copy of the rent statement.

2.3 A copy of the updated rent statement, correct to 20th May 2022.

3.The First Case Management Discussion

This case called for a Case Management Discussion (CMD) Conference call at 10.00 on 7th June 2022.

The Applicants did not attend but their representative Norman Fraser, solicitor attended on their behalf.

The Respondent attended.

3.1 Additional Evidence Required.

The legal member of the Tribunal explained that the rent statement provided was not very clear and it was not possible to read all of the figures and dates on the statement. Mr Fraser agreed to provide a better copy of the rent statement.

3.2 Submissions

3.2.1 Mr Fraser explained that the Respondent had historic rent arrears but the Applicants are only seeking to recover the arrears from 29th January 2021.

3.2.2 Mr Fraser confirmed that the rent due throughout the period of the lease has remained £525 per month.

3.3.3 Ms Moseley advised that she is not in receipt of Universal Credit. However, she does receive Housing Benefit. She confirmed that she would apply for the discretionary payments and request that they are back dated. She advised that she does not receive letters regarding the Housing Benefit payments that are made to the Landlords on her behalf. However, she will ask for letters confirming the up-to-date position regarding her Housing Benefit Payments.

4.Direction

4.1 The Tribunal issued a separate Direction to the parties to produce the following documents to the Tribunal:

Documents the Applicants were directed to produce to the Tribunal:

- (i) A clear and legible copy of the rent statement.

Documents the Respondent were directed to produce to the Tribunal:

- (ii) A copy of her Housing Benefit award letter.
- (iii) A copy of her Housing Benefit Cap letter.
- (iv) A copy of a letter from Housing Benefit confirming if she will receive back dated discretionary payments and if so the amount of the payments.

4.2 Response to the Direction

The Applicants' solicitor provided the Tribunal with an updated rent statement correct to 20th May 2022.

The Respondent did not provide the documents she was directed to produce to the Tribunal.

5.The Second Case Management Discussion

5.1 This case called for a Case Management Discussion (CMD) Conference call at 11.30 on 16th August 2022.

The Applicants did not attend but their representative Norman Fraser, solicitor attended on their behalf.

The Respondent did not attend. The Tribunal administration had sent a letter to the Respondent dated 15th July 2022 advising her of the second CMD. The Tribunal were satisfied that the requirements of Tribunal rule 29 had been met and proceeded with the Case Management Discussion.

5.2 Mr Fraser confirmed that the sum sought was £2677.75 and acknowledged that the rent statement produced indicated that the outstanding rent balance was £3617.15.

6.Requirements of Section 70 of the Procedure Rules.

6.1 In connection with the requirements of section 70 that the application correctly detailed the requirements of section 70(i), (ii) and (iii) of the Procedure Rules namely:-

(i) the name and address of the Applicants.

(ii) the name and address of the Respondent.

(iii) the reason for making the application.

6.2 The application had been accompanied by the documents specified in **Section 70(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statement of rent arrears.

7. The Tribunal made the following findings in fact:

7.1 The Applicants are the Landlords of 22 Anderson Crescent, Ayr, KA7 3RN ('the Property').

7.2 The Respondent is Tenant of the Property in terms of the Short Assured Tenancy between the parties dated 26th and 27th September 2013.

7.3 The term of the Tenancy was from 27th September 2013 to 26th March 2014 and month to month thereafter.

7.4 The rent due in terms of the tenancy was £525 per month.

7.5 The outstanding rent due by the Respondent as at 25th May 2022 amounted to £3617.15.

8. Decision

8.1The Tribunal accepted as correct the evidence of the rent statement produced which showed the outstanding rent to be £3617.15 as at 20th May 2022, a copy of which had been provided to the Respondent.

8.2 As no application had been made to the Tribunal to increase the sum claimed the Tribunal were unable to make an Order for Payment for a sum in excess of £2677.75.

8.3 The Tribunal determined that the Respondent was due outstanding rent to the Applicants in the sum of £2677.75 and accordingly they issued an Order for Payment in this sum.

9. 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.

J. T

Legal Member: |

Date: 16th August 2022