



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

Chamber Ref: FTS/HPC/CV/22/1250

Re: Property at 19 Malcolm Road, Banff, AB45 1BU (“the Property”)

Parties:

Mr Robert Michael Ibbotson, c/o Jeannete Hoather, East Rothen Croft, Cornhill, Banff, AB45 3PB (“the Applicant”)

Mr Kenneth McLeod, Mrs Fiona McLeod, 19 Malcolm Road, Banff, AB45 1BU (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £2249.33 should be granted against the Respondent in favour of the Applicant.

Background

1. By application dated 29 April 2022 the Applicant sought a payment order in relation to arrears of rent of £1689.33.
2. The Applicant sought to increase this amount on 10 June 2022 to £2, 249.33
3. The papers before the tribunal comprised; -
 - Private Residential Tenancy Agreement (PRT) dated 1 July 2019 with a start date of 1 July 2019
 - Rent Statement covering the period 22 December 2021 to 1 April 2022 showing arrears of rent to be £1689.

- Order for Payment granted by the Tribunal on 22 December 2021 against the Respondent in favour of the Applicant for the sum of £2684
 - Copy Order of the Court of Protection in England appointing Mrs Jeanette Hoather as the Applicant's deputy dated 1 September 2010
 - Pre-application Protocol Letters sent by e-mail to the Respondent dated 22nd September 2021
 - Letter from the Applicant's solicitor dated 10 June 2022 seeking to increase the sum sought and Rent Statement to 10 June 2022 showing arrears of rent due between 22 December 2021 and 10 June 2022 to be £2249.33
4. A letter of intimation dated 21 May 2022 and Notice of the Case Management Discussion (CMD) to be held on 24 June 2022 at 2pm by teleconference call together with the case papers was served on the Respondent by Sheriff Officers on 23 May 2022. The tribunal was provided with a copy of the Sheriff Officer's Certificates of Citation of that date.
 5. No written representations were received from the Respondent in advance of the CMD.
 6. The application to amend the sum sought was intimated by the Tribunal on the Respondent in advance of the CMD.

The Case Management Discussion (CMD) 24 June 2022

7. The application called for a CMD at 2pm on 24 June 2022 by teleconference. The Applicant's Representative was present namely Mr Alan Duffil, Stewart and Watson solicitors. Also in attendance was Mrs Hoather. The Respondent did not participate.
8. The tribunal explained the purpose of a CMD in terms of Rule 17 of the Rules.
9. This application was conjoined with an action for eviction under Tribunal reference FTS/HPC/EV/22/0798
10. Mr Duffil explained that the rent outstanding as at 24 June 2022 was in excess of £5000 and that the Respondent had not paid any rent since October 2021. He sought an Order for Payment in the sum of £2249.33 which is the rent due for the period from 22nd December 2021 to 10 June 2022.
11. A letter complying with the pre-action requirements set out in the Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 was sent by the Applicant's Representative to the Respondent on 22 September 2021.

12. There has been no contact with the Respondent by the Applicant since the paperwork was served. There is already an earnings arrestment in place in respect of the Order for Payment granted by the Tribunal in December 2021 which is also in respect of rent arrears.

Findings in Fact

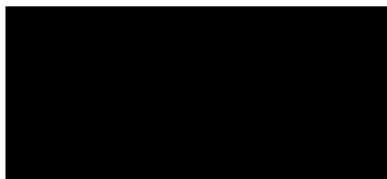
13. The Applicant is the owner and the landlord of the Property.
14. The Respondent is the tenant of the Property in terms of a PRT dated 1 July 2019
15. In terms of the tenancy agreement the Respondent requires to pay rent at the rate of £400 per calendar month.
16. The Respondent owes the sum of £2249.33 in unpaid rent to the Applicant for the period 22 December 2021 to 10 June 2022.

Reasons for Decision

17. The Applicant has provided the PRT and an updated rent statement. In terms of the tenancy agreement the rent is due at the rate of £400 per month. The rent account shows no rent has been paid since 1 October 2021. The tribunal is satisfied that the applicant is entitled to a payment order for the sum sought.

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/Chair

24 June 2022

Date

