



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/22/1901

Re: Property at 51/1 Pittville Street, Edinburgh, EH15 2BX (“the Property”)

Parties:

Places for people scotland ltd, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mrs Sasha Callaghan, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

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 Respondent in the sum of £27,641.51 with interest running on that sum at the rate of 4 per cent per year from today’s date until payment.

Background

The Applicant seeks a Payment Order in an amended sum of £27,641.51 for rent arrears said have been accrued by the Respondent under a tenancy between the parties.

The Case Management Discussion.

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 6 October 2022. The Application called alongside a related Application in respect of an Eviction Order between the parties. The Applicant was represented by Ms Mullen of TC Young Solicitors.

Sheriff Officers had attempted to serve the Application and information about the conference calls on the Respondent but reported that they could not effect service as the Respondent had vacated the Property and her whereabouts could not be ascertained.

Permission for service by Advertisement had thereafter been granted and competently carried out meaning that service had been properly effected as per Rule 6A of the *Tribunal Rules The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018*. (“The Rules”)

The Applicant had subsequently sought to amend the sum claimed under the terms of Rule 14A of the Rules. In so doing they had sent a letter to the Property with the amended sum by Recorded Delivery. This letter had in fact been signed for by someone with the name “Callaghan”.

The Tribunal discussed this matter with Ms Mullen and adjourned to discuss whether the Tribunal was content to proceed in the absence of the Respondent.

The Tribunal noted that Rule 6A had been competently and properly engaged on account of the very clear findings of the Sheriff Officers originally instructed to effect service. The fact that someone in the Property happened to sign for a document with the name Callaghan was certainly unusual – but did not appear to provide comprehensive evidence of the current address of the Respondent.

Rule 6A (4) does not appear to oblige the Tribunal to order reservice of the Application in these circumstances. There was also no comprehensive basis on which to simply dismiss the previous findings of the Sheriff Officers.

The Tribunal decided to proceed in the absence of the Respondent on the basis that the Application had been competently served. The Tribunal did however decide that the outcome of the Tribunal should also be intimated on the Respondent at the Property and will make a Direction to that effect. The Tribunal considered that this would at the very least provide the Respondent with information about the decision and a means therefore of applying for recall should there in fact be in explanation that contradicts the original findings of the Sheriff Officers.

Having addressed this matter and having thereafter discussed the Application with Ms Mullen, The Tribunal adjourned to consider matters. Having done so, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a short assured tenancy agreement that commenced on 12 June 2006;*

- II. *The Applicant is the landlord in respect of that tenancy and the Respondent is the tenant;*
- III. *The current contractual monthly rent is £931.67, having been increased from £878.26 in April 2022;*
- IV. *As at today's date, the sum of £27,641.51 is lawfully owed as arrears of rent by the Respondent to the Applicant;*

Decision.

Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order in the amended sum of £27,641.51 with interest running on that sum at the rate of 4 per cent per year from today's date until payment.

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

06/10/2022

Legal Member/Chair

Date