



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Chamber Ref: FTS/HPC/CV/22/1975

Re: Property at 19 Cedar Avenue, Beith, KA15 1DQ (“the Property”)

Parties:

Ms Sivasankari Ananda, 11 Deerhurst Place, Quedgeley, Gloucester, GL2 4WN (“the Applicant”)

Mr Jamie O'Hara, formerly residing at 19 Cedar Avenue, Beith, KA15 1DQ and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant:

SUM OF THREE THOUSAND AND NINETY-FOUR POUNDS AND EIGHTY-NINE PENCE (£3,094.89) STERLING

- Background
 1. An application was submitted under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a private residential tenancy agreement.
 2. A Case Management Discussion (“CMD”) was originally scheduled for 11 October 2022. The Respondent had previously been a tenant at the Property under a Private Residential Tenancy Agreement and had vacated the Property on 15 June 2022. The Applicant provided a forwarding address for the Respondent in their application. The Sheriff Officer was unsuccessful in serving

the papers on the Respondent at the forwarding address, which was his mother's address. It was determined by the Sheriff Officer that the Respondent did not reside there. As no alternative address was known by the Applicant, the CMD was accordingly discharged and a new date fixed, to enable service of the application by advertisement in terms of Rule 6A of the Rules.

3. The rescheduled CMD took place on 24 October 2022 by conference call. There was no appearance by, or on behalf of, either of the parties. The Applicant had been notified of the date of the CMD by letter and email dated 16 September 2022 sent to their representative, BE More Property Mentors Ltd. Due to their current whereabouts being unknown, the application was served on the Respondent by way of website advertisement between 16 September 2022 and 24 October 2022, in terms of Rule 6A of the Rules.
4. Due to the failure of either party to appear or be represented, the Tribunal dismissed the application in terms of Rule 27(2)(b) of the Rules, in that the Applicant has failed to cooperate with the First-tier Tribunal to such an extent that the First-tier Tribunal cannot deal with the proceedings justly or fairly.
5. On 3 November 2022 the Applicant's representative, Erin Howie of BE Property Mentors, emailed the Tribunal administration as follows:

"Apologise for my absence from the Conference Call on the 24th October. I was of the understanding this would not be able to go ahead as the papers were not service to the tenant. I still do not have a forwarding address, as the tenants parents have not be able to provide an address for him. I have since been informed that the tenant works at Malcolm Logistics in Beith."
6. After clarification was sought by the Tribunal as to what the Applicant's representative was seeking by way of her email of 3 November 2022, it was confirmed by email of 24 January 2023 that the Applicant sought to recall the Decision under Rule 30 of the Rules. The Tribunal considered matters in terms of the provisions of Rule 30 of the Rules and determined that it was in the interests of justice that the application for recall of the Decision is granted. The application was remitted back to a CMD for further determination.
7. A further CMD took place on 13 April 2023 by conference call. The Applicant was represented by their agent, Erin Howie of BE Property Mentors Ltd. There was no appearance by or on behalf of the Respondent. Due to their current whereabouts being unknown, the intimation of the CMD was served on the Respondent by way of website advertisement between 8 March 2023 and 13 April 2023, in terms of Rule 6A of the Rules.
8. The Applicant's representative moved for the order for payment to be granted in the sum of £3,094.89. The parties had entered into a Private Residential Tenancy Agreement. The Respondent had failed to make payment of rent. The Respondent had vacated the Property on 15 June 2022 and at the time of vacating had fallen into arrears amounting to £3,094.89. No payments had been made by the Respondent since vacating the Property nor any contact made.

- Findings in Fact

9. The Tribunal made the following findings in fact:

- (i) The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced 1 March 2018 and ended 15 June 2022;
- (ii) In terms of Clause 7 of the Agreement, the Respondent was obliged to pay a monthly rent of £400 to the Applicant;
- (iii) The Respondent had failed to make payment of rent as fell lawfully due and had accrued arrears amounting to £3,094.89.

- Reasons for Decision

10. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondent was obliged to make payment of rent in the sum of £400 per month under Clause 7 of the Agreement and had failed to do so. He had accrued arrears amounting to £3,094.89 and which fell lawfully due to be repaid to the Applicant.

- Decision

11. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment of the undernoted sum to the Applicant:

SUM OF THREE THOUSAND AND NINETY-FOUR POUNDS AND EIGHTY-NINE PENCE (£3,094.89) STERLING

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.

Fiona Watson

Date: 13 April 2023