



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/22/1984

Re: Property at 11 Station Brae, Peterculter, Aberdeen, AB14 0PX (“the Property”)

Parties:

P & C Developments Ltd., Fuaran, Malcolm Road, Peterculter, AB14 0NX (“the applicants”)

Miss Jessica Powell, 11 Station Brae, Peterculter, Aberdeen, AB14 0PX (“the respondent”)

Tribunal Members:

David Preston (Legal Member)

Decision (in absence of the Respondent)

The tribunal determined that the respondent pay to the applicants the sum of Nine thousand two hundred and eighty seven pounds and eighteen pence (£9287.18) being arrears of rent under the Tenancy Agreement between the parties.

Background:

1. By application dated 7 June 2022 the applicants applied to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) for an order for payment in respect of arrears of rent. The application was accompanied by a copy of the Private Residential Tenancy Agreement dated 15 November 2018 and the tribunal was provided with a copy Rent Statement covering the period 15 November 2018 to 14 February 2023.

Case Management Discussion (CMD)

2. The applicants were represented by Mr Philip Harris and Mrs Caroline Harris, Directors. The respondent neither appeared nor was represented.
3. A Case Management Discussion (CMD) had taken place on 13 December 2022 which had been adjourned to today to enable the respondent to submit a Time to Pay Application for consideration by the applicants and the tribunal.
4. The parties had received oral intimation of the date, time and place of the adjourned CMD before adjournment of the proceedings on 30 December 2022.
5. On 6 February 2023, Ms Annie Zdravkova, trainee solicitor, who had represented the respondent at the previous CMD intimated that, due to lack of instructions, she considered that she had no option but to withdraw from acting for the respondent.
6. The commencement of today's the CMD was delayed until 11:35 by which time the respondent had neither appeared nor been represented. The tribunal was satisfied that the respondent had been given due notice of the CMD and that she had voluntarily waived her right to be present or be represented. She had failed to communicate with her representative who had withdrawn from acting. In the circumstances the tribunal was content to proceed in the absence of the respondent.
7. No Time to Pay Application had been received by the tribunal which had been the reason for the adjournment. The tribunal noted that prior to the previous CMD the respondent had accepted in an email from her then representative liability for the arrears of rent.
8. Mr Harris advised that the respondent had eventually been evicted from the property by Sheriff Officers on 14 February 2022 and had not made any further payment of rent. By email of 5 February 2022 the applicants submitted an up-to-date Rent Statement showing arrears as the date of eviction (14 February 2023) amounting to £9287.18.

Reasons for Decision:

9. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
10. The tribunal accepted the information in the file and as provided by the applicant and, in the absence of the Time to Pay application, determined to issue the order for 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.

_____ 16 February 2023 _____