



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/22/3868

Re: Property at 2/1 27 Copland Quadrant, Glasgow, G51 2RU (“the Property”)

Parties:

Ms Lindsay Wilson, 1/2 19 Sutcliffe Road, Glasgow, G13 1BU (“the Applicant”)

Ms Vikki Marshall, Mr Stuart Todd, UNKNOWN, UNKNOWN; 38 Dapdune Court, Woodbridge Road, Guildford, Surrey, GU1 4RU (“the Respondents”)

Tribunal Members:

Alison Kelly (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 should be made.

Background

The Applicant lodged an application on 21st October 2022 under Rule 70 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) seeking payment of a sum of rent arrears.

Lodged with the Application were:

1. Copy Short Assured Tenancy
2. Rent Statement

The Application was served on the Respondent by Sheriff Officer on 30th January 2023.

On 1st February 2023 the Second Respondent sent an email to the Tribunal saying that he had been made aware that there were actions against him. He said that he had not lived in the property for the last four years, had been in a different tenancy agreement in Scotland and had then moved to England in 2021.

On 22nd February 2023 the Tribunal sent a full copy of the case papers to him.

On 27th February 2023 the Applicant sent an email to the Tribunal with an up to date rent statement and a copy of an email from the First Respondent dated 17th December 2021 which implied that the second Respondent still lived in the property.

Case Management Discussion

The Case Management Discussion (“CMD”) took place by teleconference. The Applicant represented herself. There was no attendance by the First Respondent. The Second Respondent represented himself.

The Chairperson explained the purposes of a CMD in terms of Rule 17 of the Rules.

The Applicant sought a payment order for the sum contained in the rent statement lodged recently. The Chairperson said that the First Respondent had not used the amendment procedure an order could only be granted for the amount sought in the application.

In the CMD for the accompanying eviction action, FTS/HPC/EV/22/2353, the Applicant said that this was the first notification she had received that the Second Respondent had left was when the First Respondent contacted her after the notices were served. She wished any order for payment to be granted against both Respondents.

In the CMD for the eviction action the Second Respondent said that he moved out of the property in 2019 and hadn't lived in Scotland for some time. He confirmed that he did not tell the landlord or the landlord's agent that he had moved out. He said that the First Respondent had said that she had told the landlord. The Housing Benefit was all in her name. The Second Respondent then said that he had told Jan and his wife, who he said worked for the original letting agent, Contempo Properties. The Applicant confirmed that Contempo Properties had been subsumed in to Astute Property, who were now her letting agent.

As there was a factual dispute about when the Second Respondent left the property, and whether he had given proper notification to anyone to bring his responsibilities under the tenancy agreement to an end, the Tribunal decided that the case had to proceed to a Hearing.

The Chairperson explained to the Second Respondent that the contract was one to which the concept of joint and several liability applied, and that it was for him to prove that he had given sufficient notice to allow his obligations thereunder to be brought to an end.

On 17th April 2023 the Applicant sent an email to the Tribunal asking to amend the sum sought, and producing a rent statement showing the arrears balance as at 6th April 2023 as £6983.92. This was intimated to the Respondents.

Hearing

The Case Management Discussion (“CMD”) took place by teleconference. The Applicant represented herself. There was no attendance by either Respondent. The Tribunal waited until 10.10am before commencing.

In terms of Rule 29 the Tribunal were satisfied that the Respondents had been given notice of the Hearing in terms of Rule 24(1) and decided to proceed with the Hearing.

The Applicant sought a payment order for the sum of £6983.92 brought out in the rent statement lodged on 17th April 2023. She was seeking the arrears to the date that the eviction order had been granted. She was seeking the order jointly and severally against the Respondents. She said that no written notice was ever received from the Second Respondent to terminate the tenancy, and she was not aware of him telling anyone either.

The Tribunal noted that in terms of clause 11 of the Tenancy Agreement two months written notice was required and no evidence had been provided to show that the requirement had been complied with by the Second Respondent.

Findings in Fact

1. The parties jointly entered in to a tenancy agreement for rent of the property;
2. The liability on them in terms of the contract was joint and several;
3. The monthly rent was £550;
4. The Second Respondent did not provide written notice to terminate his obligations in terms of the tenancy agreement;
5. On 6th April 2023 the rent arrears owed were £6983.92.

Reasons for Decision

The Respondents are jointly and severally liable for the rent arrears which amount to £6983.92.

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.



22 May 2023

Legal Member/Chair

Date