



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/23/0607

Re: Property at 21 Nursery Wynd, Kilwinning, KA13 6ER (“the Property”)

Parties:

Mr Dean Wallace, 8 Kelburne, Kilwinning, KA13 6LX (“the Applicant”)

Mr Vincent Burke, 21 Nursery Wynd, Kilwinning, KA13 6ER (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent for £4900.

This Hearing was a Case Management Discussion fixed to consider an Application for Civil Proceedings in regards a Short Assured Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained to parties. It was understood a final decision on the Application could also be made. The Hearing took place by teleconference.

1. Attendance and Representation

The Applicant was present personally.

The Respondent was not in attendance. He was unrepresented. No written representations had been made by him or on his behalf. He had been serviced notice of the Hearing by Sheriff Officer on 12th May 2023.

2. Case Management Discussion Summary

The Applicant set out that she sought an Order for Payment for the sum of £4900. He told the Tribunal that he also sought to recover the property for financial reasons. He was now looking to sell the house as he is unable to afford it. The Applicant said he has been having to cover the mortgage payments without the rent. He cannot afford the mortgage which is £845 per month. The rental payment in terms of the tenancy is £900. He referred to the statement of rent lodged as at 22nd July 2023 when the arrears for the property were £4900. He sought a Payment Order for this sum.

3. Findings in Fact/Reasons for the Decision.

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the overriding objective. The Tribunal had all the necessary information. The Respondent had been served by valid means and had not appeared nor made any written representations or contact with the Tribunal.**
- 2. The Tribunal was satisfied that there was a tenancy between the parties, namely in terms of Section 32(1) of the 1988 Act the tenancy was a Short Assured Tenancy dated 22nd September 2017.**
- 3. The terms of the said tenancy state that contractual monthly rent in terms of same is £900.**
- 4. As at the 22nd July 2023 the Tribunal was satisfied that the Respondent was in arrears of rent to the sum of £4900.**
- 5. The Respondent was aware of the sum of the rent arrears and had not responded to the Application before the Tribunal.**
- 6. Accordingly in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an order against the Respondent for £4900.**

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

Date 10/08/23