



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

Chamber Ref: FTS/HPC/CV/23/0848

Re: Property at 11/23 Sailmaker Road, Edinburgh, EH6 7JR (“the Property”)

Parties:

Hillcrest Enterprises Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Ms Louise Watt, 11/23 Sailmaker Road, Edinburgh, EH6 7JR (“the Respondent”)

Tribunal Members:

Josephine Bonnar (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 of the sum of £8256.78 should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an order for payment in relation to unpaid rent. A short assured tenancy agreement, AT5 notice, and rent statement were lodged in support of the application.
2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 6 July 2023 at 10am and that they were required to participate. Both were provided with a telephone number and passcode. Prior to the CMD, an updated rent statement was lodged by the Applicant together with a request to amend the sum claimed in the application to £8,256.78.

3. The CMD took place by telephone conference call on 6 July 2023. The Applicant was represented by Ms Donnelly, solicitor. The Respondent did not participate and was not represented. A related application under reference EV/23/0844 was also discussed.

Case Management discussion

4. The Tribunal noted that the application form indicates that the Applicant does not believe that the Respondent is residing at the property. It therefore appeared that the application may not have been validly served. Ms Donnelly told the Tribunal that there had been a number of incidents of antisocial behaviour, as outlined in the application form, culminating in a drugs raid by the police in August 2022. After that, neighbours reported seeing the Respondent removing bags from the property. Housing benefit payments stopped in September 2022. The Applicant made enquires with the Local Authority but was not provided with any information as this had not been authorised by the Respondent. A trace report was obtained but did not disclose a new address. Ms Donnelly referred the Tribunal to Rule 6 of the Tribunal Rules which states that a document is deemed to have been served if it is sent to the proper address of the person. Proper address is not defined in the Rules but is defined in section 26 of the Interpretation and Legislative Reform (Scotland) Act 2010 as the last known address of the person. Furthermore, the Respondent had not returned the keys to the property or told the Applicant that she had moved out. There has also been successful service of the application by Sheriff Officer, as evidenced by the certificate of service. After a brief adjournment the Tribunal concluded that the application had been validly served and proceeded to consider the application.
5. The Tribunal noted that the request to amend the application had been made more than 14 days before the date of the CMD, as required by Rule 14A of the Procedure Rules. The amendment was therefore allowed. Ms Donnelly advised the Tribunal that there are currently arrears of £8256.78, as shown on the updated statement. The account went into arrears at the end of 2019. It was thought that housing benefit had reduced because of a part time job. Efforts were made to assist the Respondent and a repayment arrangement was made, but not maintained. Housing benefit was suspended in September 2022, for reasons unknown, and no rent has been paid since that time. No payments have been made since the updated rent statement was lodged.

Findings in Fact

6. The Applicant is the owner and landlord of the property.
7. The Respondent is the tenant of the property in terms of a short assured tenancy agreement.
8. The Respondent is due to pay rent at the rate of £720.01 per month.

9. The Respondent has incurred rent arrears of £8256.78.

10. The Respondent has failed to engage with the Applicant's efforts to establish if she is living at the property and to address rent arrears.

Reasons for Decision

11. From the documents lodged by the Applicant, including the updated rent statement, and the information provided at the CMD, the Tribunal is satisfied that the Respondent has incurred arrears of rent of £8256.78 and that the Applicant is entitled to a payment order in relation to same. The Applicant also seeks interest on the sum claimed at the rate of 8%. The Tribunal is satisfied that the Applicant is entitled to interest at this rate on the unpaid rent.

Decision

12. The Tribunal determines that an order for payment should be granted against the Respondent.

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.

Josephine Bonnar

Legal Member

6 July 2023