



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/19/2912

Re: Property at 13 Ruthven Street, Auchterarder, PH3 1BW (“the Property”)

Parties:

Miss Melanie De'Mar, 9 Greenfield Circle, Elgin, IV30 5NF (“the Applicant”)

Mr Kevin MacKenzie, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £725.

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £725 in terms of s16 of the Housing (Scotland) Act 2014. The application was received on 16th September 2019.
2. A Case Management Discussion (“CMD”) was held on 17th January 2020 at Inveralmond Business Centre. Neither party attended. The CMD was continued to allow for parties to attend. A direction was issued requiring the Applicant to confirm by 31st January 2020 that she wished to proceed with the case.
3. An email was received from the Applicant’s representative/letting agent asking for the outcome of the CMD on 4th March 2020. This was from a different email

address than was used as a point of contact. The CMD was then postponed due to Covid 19 restrictions.

Case Management Discussion

4. A CMD was held on 4th August 2020 at 10am by teleconference due to Covid 19 restrictions. The Applicant represented herself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing. The Applicant explained to the Tribunal that there had been no response to the direction issued at the previous CMD because there had been a communications breakdown with her letting agent. The Applicant informed the Tribunal that the Respondent had become behind with his rent due to unemployment or sickness. He had tried to pay catch up payments at £25. The Applicant offered to reduce his rent charge but this was not taken up by the Respondent. The Respondent then left the Property at the end of September 2019. He did not give notice. This left two payments for September and October as he did not provide notice due and failed to pay the rent for September 2019. The Applicant was able to recover some of the money due from the deposit which was in excess of one month's rent payment. Most of the deposit was used for redecoration costs due to the condition that the Respondent had left the Property.
5. The CMD briefly adjourned to allow the Applicant to contact the letting agent for further details regarding the rent due. The Applicant was not able to provide any further information. The Tribunal was satisfied that the application detailed the amount of arrears. The amount had not changed and that this amount had been served upon the Respondent. In addition to this the rent account within the paperwork was a screen shot which showed an accumulative total. There was no evidence to suggest that this was incorrect. The screen shot did not show the addition of extra fees and there was no suggestion of this. The Tribunal was satisfied that this was the correct outstanding amount due. The Tribunal was also satisfied that there were no outstanding issues of reasonableness.

Findings in Fact

6. The parties entered into a Short Assured Tenancy on 2nd October 2015 until 3rd April 2016 and continue on a month to month basis thereafter. The rent payments of £425 are due by the 2nd day of each month.
7. The Housing and Property Chamber received an Application on 16th September 2019.
8. There are no outstanding Housing Benefit issues.
9. The arrears due to the Applicant amounts to £725.

Reasons for Decision

10. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent had persistently not paid the rent and were in arrears. As a consequence, the Applicant was entitled to be granted the Order for payment of £725 against the Respondent.

Decision

11. The Applicant is entitled to for an order of payment of £725 by the Respondent. The Order was 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.



Gabrielle Miller

Legal Member/Chair

4th August 2020

Date