



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/21/0236

Re: Property at 143D Brownside Road, Cambuslang, Glasgow, G72 8AH (“the Property”)

Parties:

Ms Josephine Main, 15 Abbey Park Place, Dunfermline, KY12 7PT (“the Applicant”)

Ms Theresa Craig, 143D Brownside Road, Cambuslang, Glasgow, G72 8AH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:

Background

In this case the Applicant seeks a Payment Order in the sum of £25,240.00 for rent arrears said to have been accrued by the Respondent under a tenancy between the parties at the Property. The Applicant has supplied an updated rent statement and had previously amended the sum claimed to reflect a more up to date figure of alleged rent arrears.

The Application had called for previous Case Management Discussions CMD(s) on 11 August 2021, 24 September 2021 and 10 November 2021. At the first calling of the

Application, the Respondent had indicated that she had no defence to the Application but that whilst the tenancy agreement had referred to a contractual monthly rent due of £850.00 per month, in fact the Applicant had agreed that the Respondent should only pay £725.00 per month.

After a further continuation of the case, the Applicant had confirmed that this was correct and lodged an updated rent statement based on these figures and also lodged an Application to amend the sum claimed. The last calling of the Application had been continued to allow the Respondent to consider the amended figures as she had been unable to attend that CMD due to serious illness that required hospital treatment. Case Management Notes were produced after each CMD.

The Case Management Discussion

The Application called for another CMD by conference call at 10 am on 22 December 2021. The Applicant was again represented by Ms Agyako of Cartys Solicitors and the Respondent was personally present. The Respondent indicated she was able to take part in the Tribunal and was aware of the issues.

Ms Agyako confirmed that the Applicant was still seeking a Payment Order in the sum of £25,240.00.

The Tribunal discussed this sum and the rent statement in detail with the Respondent. The Respondent acknowledged that she had not paid any rent for the whole of the year of 2020 and had only made a few payments for the better part of the last three years. The Respondent could only really say that she was surprised that the figures were so high but ultimately nothing was said that could be considered as demonstrating any defence to the Application.

The Respondent appeared muddled about dates and years and attempted to argue that she had made a payment for the current month of December 2021. However after discussing this at some length, the Respondent then appeared to imply that she had been talking about December 2019. Regrettably, the Tribunal found that the Respondent's position was frequently confused and lacked any substance.

Whilst the Tribunal acknowledged the sums claimed were high and it was unusual that such a high sum might accrue as rent arrears without eviction proceedings being contemplated, ultimately it was clear that there was no defence put forward or explanation as to why such substantial periods of time had elapsed without any rental payments being made.

Ms Agyako indicated that an Application for an Eviction Order had been made but encountered a difficulty and was advanced no further. Ms Agyako suggested further proceedings might be imminent.

Having considered the Application and having heard from parties, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy of the Property which commenced on 1 May 2014;*
- II. *The Applicant was the landlord and the Respondent was the tenant under the terms of that tenancy;*
- III. *The tenancy provided for a contractual monthly rent of £825.00 to be paid to the Applicant by the Respondent but despite the terms of the tenancy the Applicant agreed that a lower figure of £725.00 per month should be paid;*
- IV. *The Respondent fell into rent arrears and made minimal payments over around a three year period;*
- V. *The Applicant claims the sum of £25,240.00 and has produced a rent statement that establishes the payments made by the Respondent and the sums outstanding;*
- VI. *The Respondent has no defence to the Application and cannot reliably identify any inaccuracy in the rent statement or provide any other explanation as to why the Application should not be granted.*

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order against the Respondent in the sum of £25,240.00. The Applicant did not wish for any award of interest to be made and so interest will not run on the sum awarded.

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.

Andrew McLaughlin

22 December 2021

Legal Member/Chair

Date