



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/22/1722

Re: Property at Mains of Asloun Farmhouse, Alford, Aberdeenshire, AB33 8NR (“the Property”)

Parties:

Exors. of the late Francis G. Lawson, Castleton of Asloun, Alford, Aberdeenshire, AB33 8NR (“the Applicant”)

Mr Andrew Dey, Mrs Elsie Dey, 1 Folla Rule Cottages, Rothienorman, Inverurie, Aberdeenshire, AB51 8UN; 1 Folla Rule Cottages, Rothienorman, Inverurie, Aberdeenshire, AB51 8UN (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal 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 Respondents for £3203.

1. Attendance and Representation

This was a Case Management Discussion to consider the application dated 2nd June 2022 brought before the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended. for civil proceedings in respect of a Short Assured Tenancy under section 16 of the Private Housing (Tenancies) (Scotland) Act 2016. The discussion took place by teleconference.

The Applicants were represented by Alasdair Taylor, Burnett and Reid, Suit A, Ground Floor, 9 Queens Road, Aberdeen, AB15 4YL.

The Respondents were not present. The Respondents had been served by Sheriff Officer on 17th August 2022.

2. Preliminary Matters

The Applicant's representative said that there had been no contact with the Respondents since they removed their belongings and left the property in July 2021.

3. Case Management Discussion

The Applicant's representative told the Tribunal that a NTQ was served in December 2020 on a 6 months period of notice. The Respondent's found alternative accommodation quickly but did not move their belongings stopped paying rent after the NTQ. The Tribunal noted that the Applicant's were executors of the late Francis George Lawson and by virtue of a rent increase lodged and dated 24th September 2020 rent payable from that date was £575 by calendar month. The short assured tenancy for the property being entered into by parties on 30th November 2016. The rent statement lodged showed rent arrears from 1st February 2021 to 1st June 2021 inclusive and the Applicant's representative advised that one further months rent was due as the property became vacant in July 2021. This amounted to £2875. The Applicant's did not receive notice from the Respondents that they had left the local authority had contacted the Applicant's as they had heard for council tax purposed the Respondents had left the property.

The Applicant's representative said that he had sent letters to the Respondent regarding the arrears on a few occasions in June 2021. The Applicant's representative said that thereafter the Applicant's used sheriff officers to locate the Respondents. The Respondents had taken only personal belongings but had left 3 skip full worth of belongings and furniture. The Applicant's representative advised that an application was made to the approved deposit scheme to recover the £500 deposit which was successful and was applied to the skip hire invoice lodged. This invoice lodged involved a number of skip loads to clear the property and the total amount of £828 and the remainder due is £328 after deduction of the deposit, 3 or 4 skip loads. Redecoration were incurred but the Applicant's sought not to seek to recover them.

The Applicant's representative said he sought a payment order of £3203 in total. Accordingly the payment order sought by the Applicant was £3203.

4. Findings in Fact

1. The Tribunal was satisfied that a decision could be made in the absence of the Respondents at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The

Respondents had been served personally by Sheriff Officer and had not provided any written representations or appeared at the Hearing. The Applicant's representative had confirmed that sheriff officers had been instructed to find the service address of the Respondents.

2. The Applicant and the Respondent entered into an assured tenancy on 30th November 2016. A copy of same was lodged.
3. At the start of the tenancy until September 2020 the rent per calendar month due was £500. By virtue of a rent increase lodged rent payable became £575 per month from September 2020.
4. The Applicant's as Executors of the estate of the late Francis G Lawson have title to pursue civil proceedings in regards the tenancy between parties. The Tribunal had sight of the lodged confirmation pronounced by the Sheriff Clerk of Grampian Highland and Islands dated 9th November 2021.
5. A rent statement dated June 2021 lodged showed rent arrears of £2300 and the Tribunal found in fact based on the evidence before it that the Respondents were liable for rent until July 2021 and the rent due by them was £2875.
6. As at July 2021 the rent due by the Respondent to the Applicant was £2875.
7. The Applicant's incurred skip hire costs as per invoice lodged of £828. The deposit for the tenancy was applied to said costs and the remainder due to remove the Respondent's belongings is £328.
8. The Respondents owe to the Applicant in terms of the said tenancy the sum of £3203.

5. Reasons for Decision

The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property by virtue as their status as executors of the late Francis George Lawson. The Tribunal was satisfied that there was a Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the respondents were in arrears of rent lawfully due and a Rent Statement for the property was lodged. Rent owed from same and the additional month due amounted to 2875. The Respondents left a large amount of belongings in the property and the remainder of the costs due for the clearance of same by skip was £328. Accordingly in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £3203. against the Respondents.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Karen Kirk

Legal Member/Chair

13 Jan 2023
Date