



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/CV/21/1651

Re: Property at 20 Katrine Place, Irvine, KA12 9LU (“the Property”)

Parties:

Easton Housing Limited, a company incorporated under the Companies Acts and having their registered office at 2 Newfield Drive, Dundonald, Kilmarnock, Ayrshire, Scotland, KA2 9EW (“the Applicant”)

Mr Okon Ononokpono, residing at 20 Katrine Place, Irvine, KA12 9LU (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal 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 should be made.

Background

The Applicant sought an order for payment of rental arrears totalling £4,950. The Applicant had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement and a calculation of outstanding rent. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A Case Management Discussion took place before the Tribunal by telephone conference at 2.00pm on 3 September 2021. The applicant was represented by Ms A Barclay. There was no appearance by or on behalf of the Respondent, but he sets out his position in a letter dated 18 August 2021.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property on 8 January 2016.
2. The monthly rent due in terms of the Tenancy Agreement is £450 per month.
3. The Respondent failed to make payment of rent due on 8 February 2020, 8 May 2020, 8 August 2020, 8 November 2020, and 8 December 2020. Between 8 February 2021 and 8 July 2021, the respondent did not paid rent. On 14 July 2021 the Respondent started paying rental again.
4. The Respondent has failed to pay the agreed monthly rental 10 times since 8 February 2020. He owes the Applicant £4,500.00 in arrears of rental.
5. The Respondent says that he paid his rental to a third party who did not pass the rental on to the Applicant, and that he started a rent strike because repairs were required to the property.
6. The problem for the Respondent is that he admits he did not pay the rental to the Applicant. His claim to be on rent strike is rendered irrelevant by the evidence which indicates that he has not preserved the rent due in a separate account and that he neither told the Applicant that he was withholding rent until repairs were carried out, nor that repairs were required.
7. The Respondent offers no stateable defence to the application.
8. Relying on Rule 13(2)(a) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, the Applicant sought leave to amend the sum applied for by decreasing the sum sought as arrears of rent to the correct figure of £4,500.00. That application is not opposed. The amendment of the sum sought is not a new matter and is simply a matter of arithmetic. The sum sought for arrears of rent is increased to £4,500.00.
9. Notice of this hearing was served on the Respondent by sheriff officers on 2 August 2021.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £4,500. Rent was lawfully due in terms of the Tenancy Agreement at the rate of £450 per month. The Respondent has missed 10 payments of monthly rental. At today's date, the Respondent still owes the applicant £4,500 in arrears of rent.

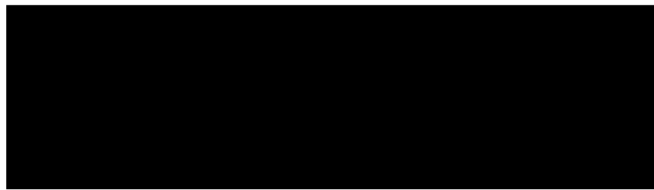
Decision

For the foregoing reasons, the Tribunal determined to make an Order for payment.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.



Legal Member

03 September 2021