



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/20/1627

Re: Property at 4 Lainshaw Street, Stewarton, KA3 5BU (“the Property”)

Parties:

Peter Brown, trading at PB Properties, 10C Vennel Street, Stewarton, KA3 5HL (“the Applicant”)

Ms Anne Kerr, formerly at 4 Lainshaw Street, Stewarton, KA3 5BU and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. An application was received under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment for rent arrears.
2. The application contained: -
 - a copy of the tenancy agreement.
 - notice to quit.
 - section 33 notice.
 - section 11 notice.
 - bank account statements; and
 - rent statement.
3. The Applicant appeared. There was no appearance by the Respondent.
4. This case had been continued from a case management discussion on 7 October 2020 for an updated rent statement. Which had been provided by the Applicant. Reference is made to the case management discussion note. Notification of

today's case management discussion had been sent to the Respondent's last known address by recorded delivered. It had been signed for. It appeared that she had received notice of today's case management discussion. I was prepared to proceed in her absence.

5. The Applicant advised me that the Respondent has now left the property. The Applicant was asked to provide an up to date address for the Respondent. He advised that he had asked the Respondent to provide an up to date address however she had refused to provide it to him.

Discussion

6. The Applicant advised that he was seeking an order for payment of rent arrears. He advised that the Respondent had been in the property since 2017. Some rent was received from the council, and the Respondent was to top up the remainder of the rent, however she did not make all of the top up payments. The Respondent had told him that she was using this money for other items. He advised that he had asked that she make payment of the arrears and the ongoing top up. The Respondent had not done so.
7. He advised that the sum remained outstanding and had in fact increased. He advised that it was now £2,982.35.
8. In accordance with the direction issued at the last case management discussion an update rent statement had been submitted, together with a letter confirming that the applicant sought repayment of the sum of £2,982.35. This paperwork had been sent to the respondent.
9. The rent statements showed the monthly rent due, the rent paid by the Council and any top up payments that had been made. It showed how the rent arrears had accrued.
10. The Applicant advised that the current rent arrears due are higher than the sum sought in the application, has asked the tribunal to amend the sum sought. I was prepared to grant the amendment.

Findings in Fact

11. The Tribunal found the following facts to be established:
12. A tenancy agreement was entered into between the Applicant and the Respondent for the Property and existed between the parties. It was entered into on 17 October 2017. It ended on 21 October 2020.
13. Clause 2 of the tenancy agreement provided that rent was £485 payable per four weekly in advance.

14. The rent statement showed total rent arrears outstanding as of 21 October 2020 being £2,982.35.
15. That it appears that there had been no payments towards the rent arrears.

Reasons for Decision

16. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to actions arising from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988. As this tenancy is an assured tenancy, I am content that I have jurisdiction to deal with this case.
17. There was no response or appearance from the Respondent.
18. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was evidence showing the arrears due and additional information was provided today by the Applicant that the sum sought for rent was still outstanding as at today's date. I was content that the Respondent had had notice of the Application and the hearing.
19. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for £2,982.35.

Decision

20. I grant an order in favour of the Applicant for TWO THOUSAND NINE HUNDRED POUNDS AND EIGHTY-TWO POUNDS AND THIRTY-FIVE PENCE (£2,982.35) STERLING 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.

Melanie Barbour
Legal Member/Chair

26/11/2020

Date

