



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/2065

Re: Property at 1 Hazel Road, Cumbernauld, G67 3BN (“the Property”)

Parties:

Mr Kevin McMail, 12 Birch Road, Cumbernauld, G67 3PA (“the Applicant”)

Mrs Nicola Barr or Rooney, 32 Ronaldsay Place, Ravenswood, Cumbernauld, G67 1NP (“the Respondent”)

Tribunal Members:

Ruth O’Hare (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment of Two thousand three hundred and fifty pounds (£2350) Sterling in favour of the Applicant against the Respondent

Background

- 1 By application to the Tribunal, the Applicant sought an order against the Respondent for unpaid rent arrears. In support of the application the Applicant submitted Short Assured Tenancy Agreement, Rent Amendment Letter, Rent Statement, Copy Text Messages and Letter from the Applicant’s solicitor to the Respondent.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 16 December 2020. Due to the imposition of restrictions arising from the Covid-19 pandemic a direction was issued to the parties by the

Chamber President confirming that the Case Management Discussion would take place by teleconference.

- 3 A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was served upon the Respondent by Sheriff Officers on 9 November 2020. No written representations were received from her in advance of the Case Management Discussion.

The Case Management Discussion

- 4 The Case Management Discussion took place by teleconference on 16 December 2020. The Applicant was present and represented by Mr Michael Muir.
- 5 The Legal Member noted that the Respondent had received service of the application paperwork by Sheriff Officers. On that basis she was content that the notification requirements had been complied with and determined to proceed with the Case Management Discussion in the Respondent's absence.
- 6 The Legal Member confirmed with Mr Muir that the Applicant sought an order for payment in the sum of £2350. There had been no offers from the Respondent nor attempts at contact to make arrangements to pay the debt. Mr Muir explained that he and the Applicant had met up with the Respondent just after she had left the property and had spoken with her. She was aware of the outstanding arrears. The Applicant had also arranged for a letter to be sent to the Respondent from a solicitor. This included a request for payment of damages. There was a response to that letter from the Respondent's solicitor, which evidenced again her awareness of the debt. Since then there had been no contact. Mr Muir confirmed that the Applicant had traced the Respondent to a new address and the application had therefore be served upon her there.

Findings in Fact and Law

- 7 The parties entered into a Tenancy Agreement dated 11th October 2013 in respect of the property.
- 8 In terms of Clause 2 of the said Tenancy Agreement the Respondent undertook to make payment of rent to the Applicant at the rate of £550 per month in advance. By agreement between the parties on 5th January 2014, the Tenancy Agreement between the parties was amended to require payments of rent in arrears.
- 9 The last payment made to the rent account by the Respondent was a payment of £550 on 28th March 2019.

- 10 The tenancy between the parties terminated on 29 July 2019.
- 11 As at the date of termination arrears in the sum of £2750 were outstanding.
- 12 The tenancy deposit of £400 was deducted from the outstanding arrears, leaving a balance of £2350.
- 13 Despite repeated requests from the Applicant the Respondent has refused or delayed in making payment of the outstanding sum.
- 14 The Respondent is due to pay the sum of £2350 to the Applicant in terms of the Tenancy Agreement between the parties.

Reasons for Decision

- 15 Having considered the written representations from the parties and the verbal submissions at the Case Management Discussion the Tribunal determined it could make a determination of the application and that to do so would not be prejudicial to the interests of the parties. The Respondent had been given the opportunity to attend the Case Management Discussion but had chosen not to do so. There were therefore no identified issues in dispute and therefore no requirement to fix a hearing in the matter.
- 16 Having considered the terms of the tenancy agreement and rent statement produced by the Applicant, and based on its findings in fact, the Tribunal was satisfied that the Respondent was liable to pay the sum of £2350 to the Applicant in terms of the Tenancy Agreement between the parties. The Tribunal therefore made an order in the sum of £2350 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.

Ruth O'Hare

Legal Member/Chair

16 December 2020
Date