



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

Reference number: FTS/HPC/CV/20/2397

Property: 2 Granton Gardens, Edinburgh, EH5 1AX

Parties:

North Edinburgh Properties C Ltd, a company incorporated under the Companies Acts and having a place of business at 5 Upper Gray Street, Edinburgh, EH9 1SN (“the Applicant”)

David Gibson, residing at 2 Granton Gardens, Edinburgh, EH5 1AX (“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 £6,420. The Applicant had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement, a Notice to Quit and s.33 notice, both served on 23 January 2020, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. A copy land certificate was lodged with the Tribunal which showed that the applicant is heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place by telephone conference at 2pm on 12 January 2021. The Applicant was represented by Ms N Caldwell of TC Young, solicitors. The respondent was present and supported by Ms J Sapeira.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Respondent entered into a short-assured tenancy Agreement for the Property with the applicant's predecessor in title on 24 August 2016. The lease initially ran from 24 August 2016 to 24 February 2017.
2. The rent in terms of the Tenancy Agreement was £625 per month.
3. The Tenancy Agreement set out the grounds on which the Landlord could seek recovery of possession of the Property in terms of Schedule 5 of the 1988 Act.
4. In August 2019 the respondent fell into arrears of rental. Between August 2019 and January 2021, the respondent was only able to make five payments towards his rental. At the date the application was received by the tribunal the respondent's arrears of rent totalled £5170.00. At today's date, there are arrears of rental totalling £6,420.00
5. 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 increasing the sum sought as arrears of rent to the correct figure of £6,240.00. 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 £6,240.00.
6. Notice of the date of this hearing was served on the Respondent by sheriff officers on 3 December 2020.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £6,420.00. Rent was lawfully due in terms of clause 3 of the Tenancy Agreement at the rate of £625.00 per month. Since August 2019 the respondent has struggled to pay the rental and arrears have accrued. At today's date the total amount of arrears of rental is £6,420.00. The application is not opposed. The total sum of £6,420 is due to the applicant.

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.

Paul Doyle

Date 12 January 2021