



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/20/0176

Re: Property at 16A Randolph Street, Buckhaven, Fife, KY8 1AT (“the Property”)

Parties:

Mr Martin Knox, 18 Victoria Road, Buckhaven, Fife, KY8 1BE (“the Applicant”)

Ms Joan Black, 2 Burns Avenue, Buckhaven, Fife, KY8 1DT (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £776.76 plus 3% interest per annum.

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £876.76 in terms of s16 of the Housing (Scotland) Act 2014.

Case Management Discussion

2. A CMD was held on 13th March 2020 at 10am at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy. The Applicant was represented by Ms Dione Brady, solicitor, Charles Wood & Son solicitors. The Applicant was not present. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of

the Rules. Neither party made representations in advance of the hearing. The Applicant advised the Tribunal that an offer of payment had been received from the Respondent through the letting agent. The offer was to pay £100 per month. The first payment had been paid on 2nd March. The Tribunal noted that this would have reduced the arrears to £776.76. Ms Brady confirmed that this was correct. The amount was reduced ex proprio moto as it was not preudial to either party and was an accurate reflection of the outstanding arrears. The rate of interest craved was 8%. This was refused by the Tribunal as the contractual amount of interest was 3% as detailed in clause 2.2 of the lease. This was accepted by the Applicant and he was content with 3%. Ms Brady issues of reasonableness that the Tribunal should consider.

Findings in Fact

3. The parties entered into a Short Assured Tenancy on 17th July 2017 for a 6 months period until 16th January 2018. A further lease was entered into on 17th January 2018 with expired on 16th November 2019 and on a month to month basis thereafter. The rent payments of £300 per month and due in advance on the 17th day of each month.
4. The Housing and Property Chamber received an Application on 17th January 2020.
5. The Respondent has persistently not made full rent payments.
6. There are no outstanding Housing Benefit issues.
7. The Respondent has offered to pay £100 per month with the first payment being made on 2nd March 2020 directly to the letting agent.
8. The arrears due to the Applicant amounts to £776.76 which takes into account the first payment of £100 towards the arrears.

Reasons for Decision

9. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 18th July 2017 to 17th October 2019 in which payments have been missed to amount to £876.76 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondent had persistently not paid the rent and were in arrears. As a consequence, the Applicant was entitled to be granted the Order for payment of £776.76 plus 3% interest per annum against the Respondent.

Decision

10. The Applicant is entitled to for an order of payment of £776.76 plus interest of 3% per annum by the Respondent. The Order was granted against the Respondent with a Time to Pay Order at £100 per month from 2nd April 2020.

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.

Ms Gabrielle Miller

13th March 2020

Legal Member/Chair

Date