

Housing and Property Chamber

First-tier Tribunal for Scotland



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/20/0302

Property: 1/1 3A Craigmount Street, Kirkintilloch G66 3EL (“the Property”)

Parties:

Mrs Lorraine Rafferty, 23 Main Street, Kilsyth, G65 0AH (“the Applicant”),

Kelvin Valley Properties, 23 Main Street, Kilsyth, G65 0AH (“the Applicant’s Representative”); and

Miss Emma Burns, whose current address is unknown (“the Respondent”)

Tribunal Member:

G McWilliams- Legal Member

Decision in absence of the Respondent

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

Background

1. This is an Application for a payment order dated 28th January 2020. It originally proceeded in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”). A Case Management Discussion (“CMD”) took place on 4th August 2020. Reference is made to the Notes on the CMD and the Notice of Directions, both dated 4th August 2020. The Applicant, through their Representative, amended the Application to proceed under Rule 70 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland)

Act 1988) of the 2017 Rules and to seek a payment order in respect of rent arrears of £2705.00, on 7th August 2020. The Representative also submitted an updated Rent Arrears Statement on that date.

2. The Short Assured Tenancy Agreement, lodged with the Application, had been correctly and validly prepared in terms of the provisions of the Housing (Scotland) Act 1988, and the procedures set out in that Act had been correctly followed and applied.
3. Following the CMD on 4th August 2020, Notification, Application papers and Guidance Notes from the Tribunal were re-intimated to the Respondent by way of service on the Tribunal's website on 25th August 2020. The Tribunal was provided with the Certificate of Service.

Case Management Discussion on 29th September 2020

4. A second CMD proceeded remotely by telephone conference call at 2pm on 29th September 2020. The Applicant's Representative's Mr J Rafferty attended. The Respondent did not attend and was not represented. Mr Rafferty stated that the Respondent was in arrears of rent in the sum of £2705.00. He asked the Tribunal to make an order for payment in the sum of £2705.00.

Statement of Reasons

5. Section 16 of the Housing (Scotland) Act 2014 provides as follows:

"16. Regulated and assured tenancies etc.

(1) The functions and jurisdiction of the sheriff in relation to actions arising from the following tenancies and occupancy agreements are transferred to the First-tier Tribunal -

(a) a regulated tenancy (within the meaning of section 8 of the Rent (Scotland) Act 1984 (c.58)),

(b) a Part VII contract (within the meaning of section 63 of that Act),

(c) an assured tenancy (within the meaning of section 12 of the Housing (Scotland) Act 1988 (c.43)).

(2) But that does not include any function or jurisdiction relating to the prosecution of, or the imposition of a penalty for, a criminal offence.

(3) Part 1 of schedule 1 makes minor and consequential amendments."

6. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rent against a tenant (such as the Respondent) in respect of a short assured tenancy such as this.
7. The Tribunal considered the terms of the Short Assured Tenancy Agreement and the copy updated Rent Arrears Statement provided, and was satisfied

that these papers established that there were outstanding rent monies due to the Applicant in the sum sought of £2705.00. Accordingly the Tribunal made an order for payment of the sum sought of £2705.00.

Decision

8. Accordingly, the Tribunal made an order for payment of the sum sought of £2705.00.

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.

Gerald McWilliams

29th September 2020

Legal Member

Date