

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under section 71(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/0854

Re: Property at 20 Barclay Way, Knightsridge, Livingston, EH54 8EY (“the Property”)

Parties:

Mr Alex Fowler, 10E Ardmillan Place, Edinburgh, EH11 2JU (“the Applicant”)

Mr Prince-Ajibola Sanni, formerly of 20 Barclay Way, Knightsridge, Livingston, EH54 8EY, but whose whereabouts are presently unknown (“the Respondent”)

Tribunal Member:

Maurice O’Carroll (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is order to make payment to Applicant the sum of Two Thousand and Twenty Two Pounds, fifty pence (£2,022.50)

Background

1. A Case Management Discussion (“CMD”) was held in relation to the above application on 4 July 2019. The Applicant, Mr Alex Fowler appeared on his own behalf. There was no appearance for the Respondent.
2. The Respondent’s whereabouts are presently unknown. He is believed by the Applicant to have moved to Nigeria. Service by Advertisement was effected on him as confirmed by the Certificate of Service by Advertisement dated 4 July 2019 placed with the Tribunal’s papers. In the circumstances, the Tribunal decided to hold the CMD in the absence of the Respondent.
3. The parties entered into a rent agreement on 7 December 2017. The rent payable was £695 per calendar month. The rent had not been paid for over three consecutive months during the year 2018. An Order for eviction was originally sought. However, the Respondent has since left the Property with the result that the Order for Eviction is no longer necessary. The Applicant therefore wishes to insist on the application for an Order for payment only.

Discussion at the CMD

4. The original application for payment of rent arrears was lodged on 14 March 2019. The amount by way of rent arrears sought at that time was £2,675. Mr Fowler explained that the security deposit of £800 had been deducted from that particular figure but that further arrears had accrued due to a failure on the part of the Respondent to make more than token payments to account.
5. By email dated 14 May 2019, Mr Fowler intimated an amendment to the sum sought to £2,022.50. He had previously advised the Respondent of that increased amount by email dated 23 April 2019. The Chair was satisfied that the terms of rule 14A of the 2017 rules (as amended) had been complied with. The amount now sought was in any event less than the amount originally stated in the originating application.

Outcome

6. The Chairman of the Tribunal was satisfied of the following:
 - The Respondent had been informed of the CMD
 - The amount now sought is properly due
 - Notification of the revised amount due has been properly intimated in terms of rule 14A.
7. Therefore the Tribunal grants the Order in the amount now sought by the Applicant.

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.

M O'Carroll

Legal Member/Chair

4 July 2019.
Date