



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/21/1963

Re: Property at 66 Hillcrest Avenue, Cumbernauld, G67 1ES (“the Property”)

Parties:

Mr Stuart Howard, Mrs Anne Howard, Heatheryknowe, High Barrwood Rd, Kilsyth, G65 0EE; Heatheryknowe, High Barrwood Rd, Kilsyth, G67 0EE (“the Applicants”)

Ms Angela Hendren, 138 Stonylee Rd, Carbrain, Cumbernauld, G67 2LU (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

Background

This was an application for a payment order dated 16th August 2021 and brought in terms of Rule 70 (Application for civil proceedings in relation to an assured tenancy under the 1988 Act) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicants sought payment of all arrears in rental payments in relation to the Property from the Respondent, which at the time of the application were noted as being £2,600.00, together with the cost of employing sheriff officers to trace the Respondent’s new address of £51.00, and provided with their application copies of a short assured tenancy agreement, a rent arrears statement, and sheriff officer’s trace invoice.

The short assured tenancy agreement 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.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 8th September 2021, and the Tribunal was provided with the execution of service.

Shortly before the Case Management Discussion, the Applicants confirmed by e-mail to the Tribunal that the tenancy agreement was terminated on 24th August 2021, and provided an updated rent arrears statement to that date showing arrears of £2,510.96.

Case Management Discussion

A Case Management Discussion was held at 10.00 on 8th October 2021 by Tele-Conference. The Applicants did not participate, but were represented by Mrs Kenyon, letting agent. The Respondent did not participate, nor was she represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Mrs Kenyon with reference to the application and papers to grant an order for payment of the sum of £2,561.96, being the rent arrears to termination of the tenancy and the sheriff officer's trace costs. Mrs Kenyon explained that the Respondent had quit the Property without notice and had not provided a forwarding address.

Statement of Reasons

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.”

Accordingly, the Tribunal has jurisdiction in relation to claims by a landlord (such as the Applicants) for payment of unpaid rental and damages against a tenant (such as the Respondent) under a short assured tenancy such as this.

The Tribunal considered the terms of the short assured tenancy agreement, the rent arrears statement, the sheriff officer’s trace invoice, and Mrs Kenyon’s submissions, and was satisfied that this disclosed an outstanding balance due by the Respondent to the Applicants in respect of rent arrears and costs of £2,561.96.

The lease agreement provided that rent of £500.00 per month is payable in advance, and that the landlord may recover any outlays incurred as a result of the tenant’s breach of the lease agreement. Accordingly, the Tribunal made an order for payment of the sum sought.

Decision

In these circumstances, the Tribunal made an order for payment by the Respondent to the Applicants of the sum of £2,561.96.

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.

Neil Kinnear
Legal Member/Chair

08 October 2021
Date