

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/20/2245

Re: Property at 10 Carrick Knowe Loan, Edinburgh EH12 7DZ (“the Property”)

Parties:

Mr Arshad Ahmed, c/o LetsLet Property Management, 5 Clerk Street, Edinburgh EH8 9JH (“the Applicant”) and

LetsLet Property Management, 5 Clerk Street, Edinburgh EH8 9JH (“the Applicant’s Representative”); and

Mrs Vivian Nousias, 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, lodged with the Tribunal in documents received between 26th October 2020 and 9th November 2020, under Rule 70 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”). In the Application the Applicant sought an order for payment by the Respondent of rent arrears of £5760.00. On 8th January 2021 the Applicant’s Representative notified the Tribunal that the Applicant had now deducted the tenancy deposit

monies of £920.00 from the monies claimed. The Representative 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. The Application papers, Guidance Notes from the Tribunal and Notification of today's Case Management Discussion ("CMD") were intimated to the Respondent by way of service on the Tribunal's website on 14th January 2021.

Case Management Discussion on 23rd February 2021

4. A CMD proceeded remotely by telephone conference call at 2pm today, 23rd February 2021. The Applicant's Representative's Mr S Akinosho and Mrs E Vacca attended. The Respondent did not attend and was not represented. Mr Akinosho stated that the Respondent was in arrears of rent in the sum of £4840.00 and asked the Tribunal to make an order for payment in that sum. He stated that the Applicant had suffered other losses as a result of the Respondent's breach of the parties' tenancy agreement. Mr Akinosho said that he would lodge a separate Application to the Tribunal if the Applicant elected to pursue damages for those losses.

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 parties' Short Assured Tenancy Agreement, the copy updated Rent Arrears Statement provided and Mr Akinosho's submission today and was satisfied that it had been established that there are outstanding rent monies due to the Applicant in the sum sought of £4840.00. Accordingly the Tribunal made an order for payment of the sum sought.

Decision

8. Accordingly, the Tribunal made an order for payment of the sum of £4840.00.

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

23rd February 2021

Legal Member

Date