



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/19/2757

Re: 48 Tiree Court, Cumbernauld, G67 1NS ("the Property")

Parties:

Mr Andrew Watson, residing at 45 Ashlar Avenue, Cumbernauld, G67 0GL ("the Applicant")

Mr Declan Burland residing at 48 Tiree Court, Cumbernauld, G67 1NS ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

**Decision**

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment would be issued requiring the Respondent to pay the Applicant the sum of £3401.

**Background**

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent in the sum of £1920 being the sum outstanding as at 4<sup>th</sup> September 2019. The sum sought was amended to £3401 by email from the Applicant dated 30<sup>th</sup> December 2019 to both the Tribunal Administration and the Respondent.

**2. Documents lodged with the Tribunal.**

- The Tenancy Agreement dated 14<sup>th</sup> December 2018.
- A rent statement for the period 10<sup>th</sup> October 2018 to November 2019 which showed the outstanding rent at 5<sup>th</sup> November 2019 to be £1740.
- A rent statement for the period 14<sup>th</sup> December 2018 to 23<sup>rd</sup> December 2019.

- Copy correspondence and text messages from the Applicant to the Respondent regarding the rent arrears.

### **3. Case Management Discussion**

This case called for a Case management Discussion (CMD) at 14.00 on 6<sup>th</sup> February 2020 at the Glasgow Tribunals Centre, 20 York Street, Glasgow, G2 8GT.

The Applicant did not attend the CMD but his representative Angela McAllister, JAM Residential Limited, 13-15 The Wynd, Cumbernauld Village, Cumbernauld, G67 2ST attended on his behalf.

The Respondent did not attend the CMD. The Respondent had been served with notice of the CMD by Kiernan Oliver, Sheriff Officer on 8<sup>th</sup> January 2020.

No written responses had been received from the Respondent.

### **4. The Tribunal identified with the applicants' representative the following agreed facts:**

4.1. The Respondent is Tenant of the Property in terms of the lease between the parties. The start date of the Tenancy was 14<sup>th</sup> December 2018.

4.2. The lease is a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

4.3. The Applicant is Landlord of the Property. The Tribunal had a copy of the Applicants' title deeds being Land Certificate DMB44341. Section B of the Land Certificate confirmed that the Applicant purchased the Property on 23<sup>rd</sup> May 2013.

4.4 The rent due in terms of the tenancy was £445 per month.

### **5. Oral Evidence**

Angela McAllister advised as follows:

- An eviction order had been granted by the Tribunal on 23<sup>rd</sup> December 2019.
- As far as she is aware the Respondent still resides in the Property. He sent her an email last week advising of water ingress to the Property.
- The Respondent has not made any further rent payments and the outstanding rent as at 23<sup>rd</sup> December 2019 is £3401, as shown in the rent statement produced.
- The Respondent will be due additional rent from 24<sup>th</sup> December 2019 until the date he vacates the Property.

**6. Requirements of Section 111 of the Procedure Rules.**

**6.1** In connection with the requirements of section 111 that the application correctly detailed the requirements of section 111(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name and address of the Applicant.
- (ii) the name and address of the Respondent.
- (iii) the reason for making the application.

**6.2** The application had been accompanied by the documents specified in **Section 111(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statement of rent arrears.

**7. Decision**

The Tribunal accepted as correct the evidence of the rent statement produced which showed the outstanding rent as at 23<sup>rd</sup> December 2019 to be £3401.

**8. Outcome.**

The Tribunal determined that the outstanding sums due by the Respondents amounted to £ **3401** and accordingly they issued an Order for Payment in this sum.

**9. 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.**

Jacqui Taylor

..... Legal Member

6<sup>th</sup> February 2020