

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 71 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/CV/18/2860

Re: Property at 10 Glenburn Terrace, Carluke, ML8 5AR (“the Property”)

Parties:

Mr Beka Kurmashvili, 1 Murray Road, Law, Carluke, ML8 5HR (“the Applicant”)

Ms Leanne Neilson, UNKNOWN, UNKNOWN, ML8 5AR (“the Respondent”)

Tribunal Member:

David Preston (Legal Member) (“the tribunal”)

Decision (in absence of the Respondent)

The tribunal determined that the respondent pay to the applicants the sum of One thousand six hundred and forty seven pounds (£1647) being arrears of rent under the Tenancy Agreement between the parties.

Background:

1. By application dated 19 October 2018 the applicant applied to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”) for an order for payment in respect of arrears of rent. The application was accompanied by the Tenancy Agreement dated 21 November 2015 and copy Bank Statements covering the period 20 October 2017 to 19 October 2018.
2. A Case Management Discussion (CMD) had taken place on 15 May 2019 at which the applicant was present, but the respondent failed to appear and was not represented. Following that CMD the applicant was asked to submit a rent statement to show the balance of arrears of rent sought.
3. By email dated 4 September 2019 the applicant lodged a rent statement and bank account transaction list. In terms of the statement the applicant sought to increase the arrears of rent sought from £1647 to £4750.

Case Management Discussion

4. The applicant attended in person and the respondent neither appeared nor was represented.
5. Notice of the adjourned CMD had been served on the respondent by advertisement in terms of Certificate of Service by Advertisement on the First-tier for Scotland, Housing and Property Chamber website between 12 June and 11 September 2011 in terms of Rule 5(4) of the First-tier for Scotland, Housing and Property Chamber (Procedure) Regulations 2017, as amended. The tribunal was satisfied that due notice had been given to the respondent to which she had failed to respond.
6. The tribunal was advised that the respondent had removed from the property on or about 9 September 2018.
7. The applicant said that he had recalculated the arrears due and found that it amounted to £4750 which was the sum he now sought. He said that the payments from the local authority were in the sum of £450 per month, leaving a shortfall of £100 to be paid by the tenant which she had failed to do. The tribunal noted that the applicant had advised at the CMD on 15 May 2019 that the shortfall was £50 per month.
8. The tribunal advised that it was unable to increase the sum sought from that contained in the application without providing due notice of the amended sum to the respondent, which would not be possible in view of the lack of her address or whereabouts.

Reasons for Decision:

9. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
10. The tribunal accepted the information in the file and as provided by the applicant and determined to issue the order for payment.

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.