



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/22/2521

Re: Property at Flat 7, 105, Echline Drive, South Queensferry, EH30 9UX (“the Property”)

Parties:

Mr Phillip Pinder and Mrs Ann Pinder, 2 South Learmonth Gardens, Edinburgh, EH4 1EY (“the Applicant”)

Archie Nicholson, Flat 7, 105, Echline Drive, South Queensferry, EH30 9UX; Nikolai Kouidreiko, Dalhousie Bank, Dalkieth, Midlothian, EH22 3DU (“the Respondents”)

Tribunal Members:

George Clark (Legal Member) and Helen Barclay (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted and made an Order for Payment by the Respondent to the Applicant of the sum of £2,521.

Background

By application, dated 25 July 2022, the Applicants sought an Order for Payment in respect of unpaid rent that had become lawfully due by the Respondent to the Applicants. The sum sought was £2,320.

The application was accompanied by copies of a Private Residential Tenancy Agreement between the First-named Respondent and the Applicants, commencing on 12 July 2019 at a rent of £450 per month and a Rent Statement showing arrears as at 12 July 2022 of £2,320. In terms of Clause 38 of the tenancy agreement, the obligations of the First-named Respondent, including all payments of rent, were guaranteed by the Second-named Respondent, who signed the tenancy agreement as Guarantor. The Applicants also provided copies of a large number of emails between the Applicants’ representatives and the First-named Respondent regarding the arrears, including references to several unsuccessful attempts to agree a Payment Plan.

The Respondent did not make any written representations to the Tribunal prior to a Case Management Discussion held on 15 February 2023. On 3 May 2023, he submitted an Application for a Time to Pay Direction, in which he admitted the debt. He stated that his monthly income was £1,800 and indicated that he could pay £850 per month towards the arrears.

The Hearing

The Hearing took place by means of a telephone conference call on the morning of 10 May 2023. The Applicant, Mr Pinder was present, in case he was required to give further evidence, but the Applicants were otherwise represented by Mrs Anne Johnstone of Northwood Central Lowlands Ltd, Falkirk, the Applicants' letting agents. The First and Second-named Respondents were both present.

Mrs Johnstone told the Tribunal that the arrears are currently £2,521. She stated that the Applicants were opposed to the application for a Time to Pay Direction. More than a dozen payment plans had been agreed in the past, and the Respondent had failed to comply with any of them.

The Respondents did not contend that this figure was incorrect.

Reasons for Decision

The Tribunal was satisfied that the sum of £2,521, being less than the sum sought in the application, was lawfully due by the First-named Respondent as tenant and the Second-named Respondent as Guarantor under the tenancy agreement. The Tribunal noted that the application for a Time to Pay Direction had not been accepted by the Respondents.

The Tribunal's Decision was unanimous.

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.

George Clark

Legal Member/Chair

10 May 2023
Date