



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/23/1083

Re: Property at 113 Merchiston Avenue, Bainsford, Falkirk, FK2 7JX (“the Property”)

Parties:

Mr Augusto Stabile, 64 Blenheim Place, Stenhousemuir, Larbert, FK5 4PT (“the Applicant”)

Mr Federico Sinibaldi and Mrs Giorgia Sinibaldi, previously residing at 113 Merchiston Avenue, Bainsford, Falkirk, FK2 7JZ and whose current whereabouts are unknown (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondents in favour of the Applicant in the sum of TWO THOUSAND SEVEN HUNDRED POUNDS (£2700) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents.

Background

- 1. This is an action for recovery of rent arrears of £2700 raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties dated 10 June 2018 and a rent statement to 12 March 2023.**

3. On 27 April 2023, the Tribunal accepted the application under Rule 9 of the Regulations 2017.
4. The Applicant's solicitor had also lodged an application for recovery of possession of the Property on 17 March 2023. Case Management Discussions ("CMDs") in both actions were assigned to proceed on 5 June 2023 but were discharged as papers were unable to be served on Mrs Sinibaldi in this action. New CMDs were assigned to proceed on 27 July 2023. Intimation on both Respondents by Recorded Delivery Post were returned to the Tribunal administration marked "Return to Sender". Accordingly, intimation of the CMDs proceeded by way of advertisement on the Tribunal website in terms of Rule 6A of the Regulations. A copy of the Execution of Service was received by the Tribunal.

Case Management Discussion

5. The Tribunal proceeded with a CMD on 27 July 2023 by way of teleconference. Mr John Gildea from John, Jackson and Dick appeared for the Applicant. There was no appearance by or on behalf of either Respondent despite the teleconference starting 5 minutes late to allow the Respondents plenty of time to join. The Tribunal was satisfied the Respondents had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in their absence. The CMD was heard with the eviction action under reference FTC/HPC/EV/23/0877.
6. Mr Gildea explained that the Respondents handed back the keys to the Property to the Applicant on 7 June 2023. The house had been cleared. Arrears were £2700. The Tribunal pointed out that that was the arrears figure when the application was lodged and queried the arrears as at the date the Respondents left the Property. Mr Gildea advised the Applicant was only seeking £2700 as the tenancy deposit would hopefully pay off the further arrears.

Reasons for Decision

7. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and rent statement. Further the Tribunal considered the submissions made by Mr Gildea. The Respondents had handed back the keys to the Applicant leaving rent arrears of at least £2700. The monthly rent was £450. The Applicant had produced evidence of persistent non- payment of rent as shown in the rent statement. The Tribunal was satisfied on the basis of the documents lodged, together with Mr Gildea's submissions that an order for payment in favour of the Applicant be granted.

Decision

8. The Tribunal granted an order for payment of £2700 in favour of the Applicant. The decision of the Tribunal 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.

Shirley Evans

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30 July 2023

Legal Chair

Date