

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/18/0178

Re: Property at 18/16 or 18(3F4) Wardlaw Street, Edinburgh, EH11 1TP (“the Property”)

Parties:

Idler Holdings Ltd, 22 Great King Street, Edinburgh, EH3 6QH (“the Applicant”)

Miss Joy Cummings, 31 Croft An Righ, Inverkeithing, Fife, KY11 1PE (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“2017 Rules”) seeking an order for payment for rent arrears in relation to an assured tenancy under the Housing (Scotland) Act 1988 by the Applicant against Respondent in relation to the subjects 18/16 or 18(3F4), Wardlaw Street, Edinburgh, EH3 6QH

Submitted with the Application was a copy of the tenancy agreement and rent statement.

A Case Management Discussion was assigned to take place on 23 March 2018 at 2.00pm.

Notice of the Case Management Discussion, together with confirmation that the Respondent could make written representation on the application on or before 28 February 2018, and a copy of the application was served by the sheriff officers on the Respondent on 13 February 2018. No representations were received by the Respondent.

The Case Management Discussion

Christina White, the Applicant's Representative appeared on behalf of the Applicant. There was no appearance by the Respondent.

I was satisfied that the Respondent had received notice of the Case Management Discussion. Accordingly, I was prepared to proceed in the absence of the Respondent.

No preliminary motions were made.

The Applicant's Agent submitted that she was seeking an order for payment of rent arrears; that with the application there had been submitted, a tenancy agreement, and rent statement showing the rent arrears. The Applicant's Agent advised that the arrears still existed. She advised that the Respondent had now left the property and the tenancy had ended.

Findings in Fact

I have found the following facts established:-

A tenancy agreement existed between the Applicant and the Respondent. It was entered into on 7 April 2017. Clause 4 of the Tenancy Agreement sets out that the rent is £530 per calendar month payable in advance.

The statement of account show payments being made by the Respondent from 1 May 2017. Some payments appear to have been made by the Respondent , but there appeared to be no payments made from August, September, November and December 2017. There appear to be four missed rental payments and the statement of account shows a balance owing of £2,120.00 as at 1st January 2018.

The Respondent had vacated the property in February 2018.

No written or verbal representations were received or made by Respondent disputing any of these facts or raising any other relevant issue.

Reasons for Decision

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.”

Accordingly, the Tribunal now has jurisdiction in relation to claims by a landlord (such as the Applicant) for payment of unpaid rental against a tenant (such as the Respondent) under a short assured tenancy such as this.

I have found a tenancy existed between the parties until at least 1 February 2018. That rent was payable in terms of the tenancy agreement. That rent was payable by the Respondent to the Applicant. I consider that the rent statement provides evidence of rent arrears by the Respondent to the amount of £2120.00. I note that the Applicant’s Agent confirmed that these arrears are still outstanding as at today’s date.

In terms of Rule 17 of the 2017 Rules I am entitled to do anything at a case management discussion which I may do at a hearing, including making a decision.

Decision

I grant an order for payment of £2,120.00 in favour of the Applicant against the Respondent.

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.

Melanie Barbour

Legal Member/Chair

Date

29. 3. 18