

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 48 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/18/2184

Re: Property at 92 Mannsfield, East Calder, West Lothian, EH53 0JE (“the Property”)

Parties:

Mr Mark Jordan, 49 Finlay Avenue, East Calder, West Lothian, EH53 0RP (“the Applicant”)

Ms Kirsty McWilliams, 92 Mannsfield, East Calder, West Lothian, EH53 0JE (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application should be granted without a hearing and made an Order for Payment by the Respondent to the Applicant of the sum of Eight Thousand and Eighty one Pounds and Forty Nine Pence (£8,081.49)

Background

By application, received by the Tribunal on 21 August 2018, the Applicant sought an Order for payment by the Respondent of £5,081.49, being arrears of rent in respect of the Property. The application was accompanied by a Statement of rent showing arrears of £5,081.49 as at 21 June 2018 and a copy of a Short Assured Tenancy Agreement between the Parties commencing on 21 April 2016 at a monthly rent of £600.

On 8 November 2018, the Tribunal intimated to the Parties the date, time and venue of a Case Management Discussion and invited the Respondent to make written representations not later than 26 November 2018.

The second-named Respondent made written representations by e-mail dated 22 November 2018. She explained the reasons for the accumulation of arrears, but did not dispute the amount being sought.

By e-mail of 28 November 2018, the Applicant sought to amend the application to increase the sum sought to £8,081.49, as the Respondent had failed to make any rental payments since the date of the application.

The Case Management Discussion

A Case management Discussion was held at Riverside House, 502 Gorgie Road, Edinburgh, on the afternoon of 29 November 2018. The Applicant was represented by Leona Duff of Aberdeen Considine and Company, solicitors, 2nd Floor, Elder House, Elder Street, Edinburgh. The Respondent was not present or represented at the Case Management Discussion, the second-named Respondent having advised the Tribunal on 22 November 2018 that she was unable to take time off work to attend.

The Applicant's representative told the Tribunal that no rental payments had been received since the date of the application and asked that the amendment sought in the e-mail of 28 November 2018 be accepted, as there was no prejudice to the Respondent, as the merits of the Order sought remained the same. The Respondent would have been aware of the obligation to continue to pay rent on a monthly basis as it fell due and the amendment was a reflection of the time between the raising of the application and the date of the Case Management Discussion. The Applicant's representative also provided the Tribunal with an updated Statement of Rent, showing arrears of £8,081.49 as at 21 November 2018.

Reasons for Decision

Rule 17 of the Schedule to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations provides that the Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and that it would make a decision without a hearing.

The Tribunal agreed to accept the amendment to the application, increasing the amount sought to £8,081.49, for the reasons set out by the Applicant's representative in the e-mail of 28 November 2018 and at the Case Management Discussion and on the ground that the Respondent had not disputed the amount originally sought and evidence had been provided that the Respondent had made no payments towards rent since the date of the application.

The Tribunal was satisfied that the sum sought in the application, as amended, was lawfully due from the Respondent.

Decision

The Tribunal decided to grant the application without a hearing and to make an Order for Payment by the Respondent to the Applicant of the sum of £8,081.49.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

George Clark

Legal Member/Chair

29 November 2018

Date