



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2016**

Chamber Ref: FTS/HPC/CV/19/0548

Re: Property at 51 Lulworth Court, Dundee, DD4 0LS (“the Property”)

Parties:

Mr George Kwek, Heatherbank, Auchmuir Bridge, Leslie, Fife, KY6 3JD (“the Applicant”)

Mr Paul Hendrie, 51 Lulworth Court, Dundee, DD4 0LS (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant should be granted an Order for Payment against the Respondent in the sum of TWO THOUSAND NINE HUNDRED AND FIFTY ONE POUNDS and 69p (£2,951.69) STERLING

Background

The Applicant was the owner of the Property. He had entered in to a lease of the Property to the Respondent on 7 September 2016 at a monthly rental of £340 pcm. The Applicant alleged that the Respondent had failed to make payment of the rent over a period of time and that arrears of £2,951.69 were outstanding. The Applicant wished to make an application to the Tribunal seeking payment of the arrears from the Respondent.

The Tribunal had before it the following documentation:-

- The Applicant’s application to the Tribunal dated 15 February 2019;
- A copy of the lease between the parties;
- A statement of rent arrears;
- A copy of the Applicant’s title to the Property;

- Copies of the Tribunal Papers served on the Respondent dated 21 May 2019.

Case Management Discussion ("CMD")

The Tribunal held a CMD at Caledonian House, Greenmarket, Dundee at 10am on 25 June 2019. The Applicant was not present but was represented by Ms Davidson of McKenzies, Solicitors, Kirkcaldy. The Respondent was neither present nor represented.

The Tribunal noted that the paperwork regarding the CMD had been served timeously on the Respondent. The paperwork highlighted the time and place of the hearing and also the fact that a decision could be made in the absence of the Respondent. The CMD had already been postponed once at the request of the Respondent. On the basis the Tribunal had already extended some leeway to the Respondent previously, the Tribunal saw no reason not to simply proceed and make a decision at the CMD.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Applicant had let the Property to the Respondent on 7 September 2016;
- A monthly rental was payable by the Respondent of £340;
- The Respondent had failed to pay the rent timeously and arrears of rental had built up to the sum of £2,951.69 as at the date of the application to the Tribunal

Reasons for Decision

The Tribunal had before it the lease of the Property which established the contractual obligation on the Respondent to pay the sum of £340 per calendar month to the Applicant. The Tribunal had before it a rental arrears statement which showed that there were arrears of rent virtually from the beginning of the tenancy and increasing significantly since July 2018. Ms Davidson for the Applicant confirmed that rental was still not being received and that by the date of application to the Tribunal these totalled £2,951.69. The Tribunal had no reason to doubt the paperwork produced by the Applicant or his agent. There was nothing from the Respondent to contradict or dispute this. Accordingly, on the balance of probabilities, the Tribunal was satisfied that there were arrears of rental in the sum sought and determined to grant a payment order against the Respondent in favour of the Applicant.

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.

E.Miller

Legal Member/Chair

25/6/19

Date