



Decision 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/19/3391

Re: Property at 9 Arnott Road, Blackford, PH4 1QE (“the Property”)

Parties:

Mr Graham McNaughton and Mrs Gillian Brown, Mill Lade, Moray Street, Blackford, PH4 1QP; Lucknow, Abercairney Place, Blackford, Perthshire, PH4 1QB (“the Applicants”)

Mr Robert Murray, 9 Arnott Road, Blackford, PH4 1QE (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment of THREE THOUSAND FIVE HUNDRED (£3500) STERLING. The order for payment will be issued to the Applicants after the expiry of 30 days mentioned below in the right to appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. By application dated 22 October 2019 the Applicants applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears against the Respondent relating to a tenancy at 9 Arnott Road, Blackford, PH4 1QE (“the Property”).
2. On 15 November 2019, the Tribunal accepted the application under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

3. On 9 December 2019, the Tribunal enclosed a copy of the application to all parties and invited the Respondent to make written representations to the application by 30 December 2019. The Tribunal also advised parties that a Case Management Discussion under Rule 17 of the Regulations would proceed on 13 January 2020.
4. The Respondent did not make any written representations by 30 December 2019.

Case Management Discussion.

5. The Tribunal proceeded with the Case Management Discussion on 13 January 2020. The Applicant Mrs Brown appeared personally. She was appearing on behalf of Mr McNaughton, her business partner. The Respondent also appeared personally.
6. The Tribunal had before it the Application with a Minute of Lease between the Applicant s and the Respondent, signed and dated 30 June 2017 and a rent statement to 30 September 2019 showing how the arrears had accrued.
7. Both parties accepted the Minute of Lease was the up to date agreement between parties and that in terms of Clause FOURTH the Respondent had agreed to pay monthly rent of £ 500.
8. Mrs Brown produced an up to date rent statement which showed arrears to 31 January 2020 of £4000. She accepted that arrears to date were £3500. This was also accepted by Mr Murray.
9. The Tribunal asked Mr Murray if there was any reason why the order for payment should not be granted. He explained there was no reason. He explained that he had got himself into financial difficulties which he could see no way out of. He had recently gone onto Universal Credit and was getting no income in at the moment. He explained that he had sought advice from Shelter and the Council, but there was nothing anyone could do for him. He explained he had tried to kill himself at Christmas. He could not see that things were going to get any better.
10. The Tribunal enquired whether the Applicant was seeking an increased sum for arrears from £2000 to £3500. Mrs Brown advised she was. Mr Murray had no objection to that. In the circumstances the Tribunal was prepared to allow the sum sought to be so increased there being no prejudice to the Respondent who accepted the arrears were due for the increased sum.

Findings in Fact

11. By way of a Minute of Lease between the Applicants and the Respondent signed and dated 30 June 2017 the Applicants agreed to Lease the Property at a monthly rent of £500 to the Respondent. The Respondent is liable to pay £500 per month to the Applicant in terms of Clause FOURTH of the Minute of Lease.
12. The First Named Respondent last made a payment of £500 to the rent on 31 May 2019. He has made no payments of rent since then.
13. The Respondent has fallen into rent arrears. The arrears as of the date of application on 22 October were £2000. These have increased to £3500 as of 13 January 2020.
14. The Respondent has recently moved from Employment and Support Allowance to Universal Credit. The First Named Respondent is not in a position to pay the agreed rent of £500 per month.
15. Arrears are accruing at £500 per month.

Reasons for the Decision

16. Mrs Brown provided evidence of non-payment of rent in the form of the Minute of Lease and the up to date rent statement. The Respondent accepted he was in rent arrears of £3500 and that there was no reason why the order for payment should not be granted by the Tribunal. The Respondent explained he was not in a position to pay rent as he had got himself into a situation where he had "gone off the rails".
17. The Tribunal was prepared to allow the sum sought to be increased to £3500 as per the up to date rent statement produced by Mrs Brown as the Respondent accepted he was in arrears in that sum and had no objection to the increase in the sum sought.
18. In the circumstances, on the basis of the evidence produced by the Applicants and on the basis that the Respondent accepted there was no reason as to why the Tribunal should not grant the Order, the Tribunal granted an order for payment of £3500 against the Respondent in relation to rent arrears to 13 January 2020.

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.

Shirley Evans

Legal Member/Chair

Date

13 January 2020.