



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/19/3238

Re: Property at 38 Stornoway Drive, Kilmarnock, KA3 2GJ (“the Property”)

Parties:

Ms Fiona Miller, 19 Target Close, Bedfont, Middlesex, TW14 9TF (“the Applicant”)

Miss Gaynor Sharpe, formerly residing at 38 Stornoway Drive, Kilmarnock and whose present whereabouts are unknown (“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

1. 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 (“the 2017 Rules”) seeking an order for payment of the sum of £1033.52 in relation to rent arrears due by the Respondent.
2. The application contained:-
 - a copy of the Tenancy Agreement; and
 - various email correspondence between the tenant and the letting agents regarding the arrears

3. The applicant appeared with Mr Husband, her supporter. There was no appearance by the respondent. I was aware that service by advertisement had taken place for the respondent and I was therefore prepared to proceed with the case management's discussion in her absence.

The Hearing

4. The applicant advised that she was seeking an order for sum set out in the application. She advised that this was still the sum outstanding and that there had been no further payment towards the arrears by the respondent.
5. The applicant advised that the arrears had accrued from June 2019. The letting agents had been contacted by the respondent to advise that the respondents' partner had had an accident and they could not afford to pay that month's rent, and could they pay £200 only and would make up the arrears payments thereafter at £110 per month plus rent. The applicant had agreed to this; however there was only one payment of £110 made to the arrears with the July 2019 rent. The respondent had then given notice to end the tenancy. The notice ran until 27 August 2019. No payment to rent or arrears was made in August 2019. Accordingly, there were rent arrears of £440 and a balance of the final month's rent of £593.52. The applicant advised that the respondent was aware of these sums as there had been correspondence between them and the letting agent. There have been a number of requests for repayment however the respondent had ignored these requests.

Findings in Fact

6. The Tribunal found the following facts to be established:
7. A tenancy agreement was entered into between the applicant and the respondent for the property and existed between the parties. It was entered into on 5 November 2012.
8. Clause 5 of the tenancy agreement provided that monthly rent was due in advance. Monthly rent was £750.
9. That there was email correspondence between the letting agents the respondent confirming the rent outstanding.
10. The tenancy appeared to have ended on 27 August 2019
11. There appeared to have been no payments towards the rent arrears.

Reasons for Decision

12. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to actions arising following from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988.
13. As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this case.
14. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so.
15. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued for

Decision

16. I grant an order in favour of the Applicant for ONE THOUSAND AND THIRTY THREE POUNDS FIFTY TWO PENCE (£1,033.52) STERLING 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.

L Ward

Légal Member/Chair

Date

6.1.2020