



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/3159

Re: Property at 2 Long Dalmahoy Cottage, Kirknewton, Edinburgh, EH27 8EE (“the Property”)

Parties:

John William Gibbs, Douglas Andrew Connell, Barry Michael McCorkell, Dalmahoy Estate Office, Dalmahoy, Kirknewton, EH27 8EB (“the Applicant”)

Mr John Steven, Dalmahoy Cottage, Kirknewton, EH27 8EB (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a payment order in the sum of Two thousand pounds (£2000) Sterling against the Respondent

Background

- 1 By application to the Tribunal dated 1 September 2022 the Applicants sought an order for payment of against the Respondent in respect of outstanding rent arrears. In support of the application the Applicants provided the following documentation:-
 - (i) Short Assured Tenancy Agreement between the parties.
 - (ii) Rent Statement.
 - (iii) Copy Confirmation in favour of the Executors of the Earl of Morton.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 14

December 2022. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

Case Management Discussion

- 3 The Case Management Discussion took place by teleconference on 14 December 2022. The Applicant was represented by Mr Peoples of Turcan Connell Solicitors. The Respondent was not present. The Tribunal noted that he had received service of the application paperwork together with notification of the date and time of the Case Management Discussion and therefore determined to proceed in his absence.
- 4 Mr Peoples addressed the Tribunal. He made reference to the schedule of rent arrears, pointing out the missed payments which had resulted in a balance of £2000. There had been no contact from the Respondent and no payments. The Applicants therefore sought a payment order.

Findings in Fact and Law

- 5 The Earl of Morton entered into a Short Assured Tenancy Agreement with the Respondent which commenced on or around 6 January 2015.
- 6 The Applicants are the executors of the Earl of Morton and have the landlord's interest in the lease.
- 7 The tenancy terminated on 3 March 2021.
- 8 In terms of the said tenancy agreement the Respondent undertook to pay rent at the rate of £500 per month.
- 9 As at the date of termination of the tenancy arrears in the sum of £2000 were outstanding.
- 10 The Respondent is therefore liable to pay the sum of £2000 to the Applicants.

Reasons for Decision

- 11 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. There were no facts in dispute that would require a hearing to be fixed. The Respondent had not attended the Case Management Discussion, nor made written representations, therefore there was nothing before the Tribunal to contradict the position put forward by the Applicant.
- 12 Based on its findings in fact the Tribunal accepted that the Respondent was liable to pay the sum of £2000 to the Applicants in accordance with his

contractual obligations under the tenancy agreement in respect of the payment of rent. The Tribunal therefore determined to make a payment order for that sum.

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.

Ruth O'Hare

14 December 2022

Legal Member/Chair

Date