



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/22/1174

Re: Property at 93 Nelson Avenue, Howden, Livingston, EH54 6LA (“the Property”)

Parties:

Mr Derek Adams, 10 New Calder Mill Road, Livingston, EH54 6FT (“the Applicant”)

Leanne Carson, 93 Nelson Avenue, Howden, Livingston, EH54 6LA (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £3137.82.

Background

- 1.** This is an application received on 25th April 2022 and made in terms of Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (‘the Rules’). The Applicant is the landlord of the Property, and the Respondent is the tenant, in terms of a tenancy agreement that commenced on 31st July 2015 at an agreed rent per month of £650. The rent was increased to £750 from 1st November 2021.
- 2.** The Applicant lodged a copy of the tenancy agreement, copy rent increase notice dated 29th September 2021, and a rent statement showing arrears in the sum of £3137.82.
- 3.** Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officers on 15th June 2022.

The Case Management Discussion

4. A Case Management Discussion took place by telephone conference on 27th July 2022. The Applicant was in attendance. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the Hearing, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 17(2) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant and the material before the Tribunal.
6. The Applicant asked the Tribunal to grant a payment order in respect of the rent arrears. The tenancy is ongoing. There has been no contact from the Respondent, who last paid the sum of £6 towards the rent in February 2022. The Respondent was in receipt of Housing Benefit which partially paid the rent, but this has not been paid to the Applicant since January 2022. The Applicant understands the Respondent was to provide a change of circumstances form so that payments could recommence, but she has not done so.

Findings in Fact and Law

7.
 - i. Parties entered into a short assured tenancy agreement in respect of the Property commenced on 31st July 2015 at an agreed rent per month of £650.
 - ii. The rent was increased to £750 from 1st November 2021.
 - iii. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - iv. The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

8. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

9. An order for payment is granted in favour of the Applicant in the sum of £3137.82.

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.

Helen Forbes

Legal Member/Chair

27th July 2022

Date