



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/20/0378

Re: Property at 31 Newton Road, Dumfries, DG2 0EG (“the Property”)

Parties:

Mr Henry Krieger, Mrs Fiona Krieger, 2 Argyle Terrace, Annan, DG12 6SF (“the Applicants”)

Mr David Handleigh, Mrs Catherine Handleigh, 31 Newton Road, Dumfries, DG2 0EG (“the Respondents”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondents)

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 Applicants in the sum of £4,346 and a Time to Pay Direction made whereby the Respondents will pay the sum by instalments of £200 per month.

Background

1. This is an application received in the period between 5th and 19th February 2020, 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 Applicants were seeking an order for payment in respect of rent arrears in the sum of £1,137. The Applicant lodged a copy of a short assured tenancy agreement between the parties that commenced on 25th November 2017 at an initial monthly rent of £460, which was later increased to £500, and copy correspondence between the parties.
2. On 14th July 2020, the Respondents submitted an application for a time to pay direction, proposing the sum of £200 monthly towards the arrears.
3. Thereafter, the Applicants’ representative lodged a response to the time to pay direction, stating that the sum proposed was not reasonable.

4. By email dated 21st July 2020, in response to a direction by the Tribunal, the Applicants' representative lodged an updated rent statement indicating that the sum of £4,250 was outstanding.
5. By email dated 28th July 2020, the Respondents made written representations in response to submissions included within the Applicants' response to the time to pay direction.
6. A Case Management Discussion ("CMD") took place by teleconference call on 31st July 2020. Neither party was in attendance. The Applicants were represented by Mr Benjamin Hann. The CMD was continued to allow a further application to amend the sum sought.
7. By email dated 7th August 2020, the Applicants' representative made an application to increase the sum sought to £4,750.

The Case Management Discussion

8. A Case Management Discussion ("CMD") took place by teleconference call on 9th September 2020. Neither party was in attendance. The Applicants were represented by Mr Hann.
9. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondents had been given reasonable notice of the time and date of the CMD, together with details on joining the telephone conference, by email on 12th August 2020. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondents upon the representations of the Applicants' representative and the material before the Tribunal.
10. Mr Hann said the Respondents left the Property on 6th August 2020. The sum due in outstanding rent to that date is £4,346.
11. Mr Hann said there was no objection by the Applicants to the Respondents' application for a time to pay direction in the sum of £200 per month.

Findings in Fact

12.
 - (i) The parties entered into a short assured tenancy agreement in respect of the Property that commenced on 25th November 2017 and ended on 6th August 2020.
 - (ii) The rent was initially £460 per month, later increasing to £500 per month.

- (iii) The Respondents failed to make payment of rent lawfully due in the sum of £4,346.
- (iv) The Applicants are entitled to recover rent lawfully due in terms of the tenancy agreement.

Reasons for Decision

13. The Respondents have failed to make payment of rent lawfully due in terms of the tenancy agreement. The Applicants are entitled to recover the rent lawfully due.

Decision

14. An order for payment is granted in favour of the Applicant in the sum of £4,346. A time to pay directions is made whereby the Respondents will pay the sum of £200 per month.

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.

—
—
Legal Member/Chair

_____ **9th September 2020**
Date