



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/22/1287

Re: Property at 9C Mar Grove, Musselburgh, East Lothian, EH21 7BW (“the Property”)

Parties:

LAR Housing Trust, F3 Buchan House, Carnegie Campus, Enterprise Way, Dunfermline, Fife, KY11 8PL (“the Applicant”)

Mr Christopher Witherspoon, 9C Mar Grove, Musselburgh, East Lothian, EH21 7BW (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member) and Mary Lyden (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be granted against the Respondent for payment to the Applicant the sum of Eight Thousand Eight Hundred and Sixty Three Pounds and Fifteen Pence (£8,863.15)

Introduction

1. This application is an application under Rule 70 and Section 16 of the Housing (Scotland) Act 2014. The application seeks to recover arrears of rent.
2. Intimation of the application and of the initial Case Management Discussion (CMD) was effected upon the respondent by Sheriff Officers on 16 June 2022.
3. The CMD took place by teleconference on 29 July 2022 at 10.00 am.

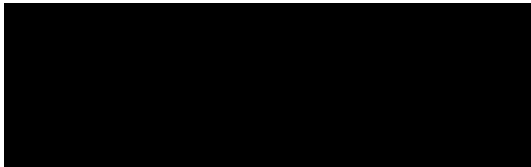
4. The applicant was represented by Miss Claire Mullan of Messrs TC Young Solicitors. The respondent failed to participate. There was no known barrier to him doing so.

Findings and Reasons

5. The property is 9C Mar Grove, Musselburgh, East Lothian EH21 7BW.
6. The applicant is LAR Housing Trust, a charitable incorporated organisation. The respondent is Mr Christopher Witherspoon. The applicant is the landlord and the respondent is the tenant.
7. The parties entered into a short assured tenancy which commenced on 14 December 2016. At the time the written agreement was entered into the respondent had a co-tenant, Ms Katie Witherspoon. On 3 February 2021 she gave notice in writing via email to terminate her joint interest in the tenancy as at 14 March 2021. The respondent has continued as the sole tenant since then.
8. The tenancy agreement requires the respondent to pay £600 per month in rent. The respondent has been in arrears of rent since March 2021. At the time of application, he was in arrears of rent to the extent of £6,913.45. A timeous Rule 14 A amendment application was subsequently made with a detailed rent statement disclosing that as of 1 July 2022 the arrears have increased to a level of £8,863.15. The Tribunal found this to be a credible and reliable document and weight was attached to it.
9. The applicant is entitled to recover arrears of rent lawfully due under and in terms of the lease.
10. The respondent has unreasonably failed to make payment despite repeated request to do so.
11. The Tribunal found it reasonable and necessary to make a Payment Order against the respondent in the sum sought of £8,863.15.
12. In the application the applicants also seek interest from the date of decision. The Administration of Justice (Scotland) Act 1972, section 4 as amended by the Act of Sederunt (Interest in Sheriff Court Decrees and Extracts) 1993 covers the payment of judicial interest in the Sheriff Court and these provisions have not been extended to the Tribunal. The payment of a judicial rate of 8% has no statutory basis for the Tribunal. 3% per annum is an appropriate and proportionate rate of interest to be imposed by the Tribunal.

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.



29 July 2022

Legal Member/Chair

Date