

Housing and Property Chamber
First-tier Tribunal for Scotland



Statement of Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16, Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/17/0453

Re: Property at 161 Foresthall Drive, Glasgow, G21 4EL ("the Property")

Parties:

Miss Joanne McClintock, 34 Westfields, Bishopbriggs, G64 3PL ("the Applicant")

Miss Denise Blyth, 161 Foresthall Drive, Glasgow, G21 4EL ("the Respondent")

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of TWO THOUSAND FOUR HUNDRED AND SIXTY EIGHT POUNDS AND FIFTY SIX PENCE (£2468.56) STERLING. **The order for payment will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

Background

1. By application dated 3 December 2017, the landlord/Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") for an order for payment of rent arrears against the tenant/Respondent relating to a tenancy at 161 Foresthall Drive, Glasgow G21 4EL ("the Property").

2. On 14 December 2017 the Tribunal gave notification of acceptance of the application to the Applicant and the Respondent under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations").
3. On 28 December 2017 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 15 January 2018. The Tribunal advised both parties on 28 December 2017 that a Case Management Discussion under Rule 17 of the Regulations would proceed on 31 January 2018. This paperwork was served on the Respondent by Andrew Fraser, Sheriff Officer, Glasgow on 28 December 2017 and certificate of execution of service was received by the Tribunal administration.
4. The Respondent did not make any written representations by 15 January 2018. The Applicant provided the Tribunal with further correspondence in support of her application and intimated that she wished to be represented at the Case Management Discussion by a relative. A copy of this further correspondence from the Applicant was sent to the Respondent by recorded delivery post on 24 January 2018.

Case Management Discussion

5. The Tribunal proceeded with the Case Management Discussion on 31 January 2018. The Applicant appeared with her uncle as her representative. The Respondent did not appear and was not represented.
6. The Applicant and her representative explained to the Tribunal that the Applicant and the Respondent entered into a Short Assured Tenancy Agreement dated 7 December 2016 and 3 January 2017 in relation to the property at 161 Foresthall Drive, Glasgow, G21 4EL. In terms of Clause 4.1 of the Short Assured Tenancy Agreement, the Respondent agreed to pay monthly rent of £670 to the Applicant. The Applicant claims that the Respondent has fallen into arrears of rent and that the arrears are increasing. The Applicant sought payment for arrears of rent in the sum of £2468.56.
7. The Applicant and her representative explained during the Case Management Discussion that she had attempted on numerous occasions to contact the Respondent after she stopped paying rent. The Applicant explained that the last payments made direct to her from the Respondent were made on 4 August 2017. There had also been two amounts paid by way of Housing Benefit. The monthly rent was £670. Arrears were increasing and no attempt had been made by the Respondent to clear the arrears. The Applicant's

Representative explained that he understood that Housing Benefit had been suspended.

8. The Applicant had provided the Tribunal with a copy of her bank statement which she explained was used for the Property. This showed the last payments to the rent account made by the Respondent amounted to £670 on 4 August 2017. The Applicant had also provided a rent statement which clearly showed how the arrears of £2468.56 had accrued up to the date of the application.

Findings In Fact

1. The Applicant and the Respondent agreed by way of a Tenancy Agreement dated 7 December 2016 and 3 January 2017 in relation to the Property at 161 Foresthall Drive, Glasgow, G21 4EL that the Respondent would pay the Applicant a calendar monthly rent of £670.
2. The Respondent has fallen into arrears of rent.
3. The Respondent last paid rent to the Applicant on 4 August 2017 when she made two payments to account, one payment amounting to £170 and the other payment being £500. The Respondent has made no payments of rent since 4 August 2017.
4. The Applicant has attempted to engage with the Respondent to get her to pay rent. The Respondent has refused to do so.
5. Housing Benefit made a payment of £79.29 covering the period 16 October 2017 – 6 November 2017. Housing Benefit made a payment of £132.15 covering the period from 6 November 2017 – 11 December 2017.
6. Arrears of rent were £2468.56 as of 3 December 2017, being the date of the application to the Tribunal.
7. Arrears have increased to £3138.56 as of 1 January 2018.

Reasons For Decision

The Applicant provided evidence of non-payment of rent in the form of her bank statement for the Property. She also provided copies of text messages to the Respondent chasing her for payment. These were generally ignored by the Respondent other than one text received from the Respondent which indicated that she would not move out of the property on 1 December 2017 and that the Applicant would need to get an order from court before she could change the locks. The Tribunal is satisfied that the Respondent is in arrears of rent of the sum sought in the application.

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.

SHIRLEY EVANS


Shirley Evans
Legal Member/Chair

9 February 2018
Date