



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/24/2530

Re: Property at 137 Broomfield Crescent, Edinburgh, EH12 7LU (“the Property”)

Parties:

Mactaggart & Mickel, 1 Robertson Street, Glasgow, Glasgow City, G2 8JB (“the Applicant”)

Ms Ashley Mackay, 137 Broomfield Crescent, Edinburgh, EH12 7LU (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of THREE THOUSAND THREE HUNDRED AND SIXTY-ONE POUNDS AND FIFTY PENCE (£3361.50)

Background

1. By application dated 31 May 2024 the applicant seeks an order for payment in the sum of £3361.50 in respect of outstanding rent arrears. The application was conjoined with application reference FTS/HPC/EV/24/2527 seeking an order for eviction relying on grounds 11 (persistent delay in paying rent) and ground 12 (rent arrears) both in schedule 5 of the Housing (Scotland) Act 1988.
2. The following documents were submitted with the application:
 - Short assured tenancy agreement
 - Pre action letters to the respondent

- Form AT6 with proof of service
 - Notice to quit with proof of service
 - Notice under section 11 of the Homelessness Etc. (Scotland) Act 2003.
 - Rent account from 1 February 2022 to November 2024
3. A case management discussion (“cmd”) was assigned for 14 November 2024

Case management discussion – 14 November 2024- teleconference

4. The applicant was represented by Ms Young, Letting Agent, DJ Alexander Lettings Ltd. The respondent was not in attendance. The respondent had been served with papers by Sheriff Officers by letterbox delivery on 9 October 2024. The Tribunal was satisfied that that she had been properly notified of the cmd and proceeded in her absence in terms of rule 29.
5. Ms Young sought an order for payment in the sum of £3361.50. She referred to the updated rent account which had been lodged in advance of the cmd. This showed that arrears had increased from £3361.50 when the application had been submitted to £7709.15 at 1 November 2024. The rent account showed that no payments had been received from the respondent since April 2024. The account also showed that the respondent had been in arrears since February 2022.
6. Ms Young stated that the letting agents had made numerous attempts to contact the respondent by letter, text messages, telephone calls and visits. However, the respondent failed to engage and had made no payments to the rent account. Arrears continued to rise.

Findings in fact and law

7. Parties entered into a short assured tenancy agreement with a commencement date of 14 July 2010.
8. Monthly rent due in terms of the agreement is £731.51.
9. Rent arrears as at the date the application was submitted amounted to £3361.50.
10. Rent arrears as at the date of the cmd amounted to £7709.15.
11. The respondent has been in arrears of rent since February 2022.

12. The last rent payment received from the respondent was in April 2024.

Reasons for the decision

13. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

14. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.

15. The Tribunal took into account that the respondent had not lodged any defence to the application or disputed the sum sought in any way.

16. The Tribunal had no reason to doubt the information provided by the applicant's agents in relation to the level of outstanding arrears. The Tribunal was satisfied that arrears in the amount of £3361.50 were lawfully due as at the date of the cmd.

Decision

The Tribunal determined to grant an order for payment in the sum of £3361.50.

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.

Mary Claire Kelly

Legal Member/Chair

14 November 2024

Date