

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/0739

Re: Property at 94 Grainger Steet, lochgelly, Fife, KY5 9HY (“the Property”)

Parties:

Lotus Group, 184 Newbury Road (The Factory), Banbridge, County Down, BT32 3NB (“the Applicant”)

Mr Gary Smith, c/o 33 Dalbeath Gardens, Hill of Beath, Cowdenbeath, KY4 8DT (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application for a payment order for rent arrears said to be due by the Respondent to the Applicant in respect of his tenancy at the Property.

The Applicant was represented at the Case Management Discussion by Miss Welsh of Focus Property Centre. The Respondent was not present at the Case Management Discussion.

V.Bremner

The Applicant's representative requested that the Case Management Discussion go ahead in the absence of the Respondent and the Tribunal noted that papers had been served on the Respondent by Sheriff Officer, leaving these at the Property on 10th May 2019. The Tribunal was prepared to proceed in the absence of the Respondent on the basis of the Tribunal Rules of Procedure.

The Tribunal had before it at the Case Management Discussion the Application, a Tenancy agreement, Form AT5, Form AT2 rent increase form and a rent account statement.

The Tribunal also had sight of written representations from the Applicant's Representative dated 1 April 2019 which set out that the Respondent had entered into a tenancy agreement with the original landlord and owner of the Property, St Andrews Estates (Scotland) Limited in 2016. In November 2018 it was stated that the property and associated contracts, including the tenancy agreement were taken over by the Applicant.

The Applicant's representative advised the Tribunal that the Respondent had first entered into a tenancy at the property in 2016. At that time the monthly rent was £340. This was increased in 2018 to £350 per month with effect from 12 May in that year and the Respondent had been given notice of the increase by way of a Form AT2 in February 2018.

The Applicant's representative advised the Tribunal that the Respondent had now moved out of the property as at 3rd June 2019. The Respondent had confirmed to the Applicant's representative on moving out that his forwarding address was c/o of his grandfather's address at 33 Dalbeath Gardens, Hill of Beath, KY4 8DT and the Application was amended to reflect this address.

The Applicant's representative advised that during the tenancy some payments had been made towards the rent said to be due by the Respondent by either Housing Benefit or Universal Credit, but in February 2019 the Respondent had advised when he made a payment towards the rent that he was no longer in receipt of benefit towards his housing costs as he was working full time. The Applicant's representative had never received any information to suggest that any accumulated arrears of rent, said to be £1445.70 as at 22nd February 2019, were due to a delay in receiving or failure to receive any benefit on the part of the Respondent.

The Applicant's Representative advised the Tribunal that a deposit had been paid by the Respondent but this was being requested from a Deposit Scheme in order to deal with other issues arising from the tenancy and not to put towards any rent said to be outstanding.

Findings in Fact

1. The Respondent entered into a tenancy agreement with the original landlord and owner of the Property, St Andrews Estates (Scotland) Limited in 2016. In November 2018 the property and associated contracts, including the tenancy agreement and outstanding obligations arising from this agreement were taken over by the Applicant.
2. The rent due by the Respondent in terms of the agreement was initially £340 per month and this increased to £350 per month with effect from 12th May 2018.
3. The Respondent fell into arrears of rent for the Property in 2018 and with effect from 22nd February 2019 these stand at £1445.70.
4. The arrears of rent for the property do not relate to any delay in the payment of Housing Benefit or Universal Credit due to the Respondent.

Reasons For Decision

The Respondent is lawfully due to pay arrears of rent for the Property to the Applicant in the sum of £1445.70 as at 22nd February 2019.

Decision

The Tribunal makes a Payment Order in favour of the Applicant in the sum of £1445.70 to be paid by the Respondent.

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.

V.Bremner

Legal Member/Chair

12 June 2019

Date