



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/19/2456

Re: Property at 11 Southfield Road, Blackwood, ML11 9SA (“the Property”)

Parties:

Mrs Heather MacLeod, c/o Harper MacLeod LLP, Citypoint, 65 Haymarket Terrace, Edinburgh, EH12 5HD (“the Applicant”)

Ms Jennifer Anderson, 11 Southfield Road, Blackwood, ML11 9SA (“the Respondent”)

Tribunal Members:

Lesley A Ward (Legal Member)

Decision (in absence of the Respondent)

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondent shall make payment to the applicant the sum of seven thousand and eighty pounds (£7080).**
- 2. This was the third case management discussion ‘CMD’ regarding an application in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s16 of the Housing (Scotland) Act 2014 to recover rent arrears. The first two CMD’s on 28 November 2019 and 22 January 2020 were adjourned and directions were made. The respondent attended the first two CMD’s and was present on 22 January 2020 when the CMD for today was fixed. It was noted at that time that an eviction application (tribunal reference FTS/HPC/EV/20/0047 was due to call and the decision was made by the legal member to conjoin the cases.**
- 3. The tribunal was satisfied that the respondent knew about today’s CMD as she was present the last time, has received letters from the tribunal since then, and sheriff officers served the eviction application by depositing at the property on 22**

January 2020. The tribunal was satisfied that the respondent had appropriate notice in terms of rule 24.

4. The applicant attended the CMD and was represented by Mr Johnston solicitor. The tribunal proceeded with the application in terms of rule 29 in the respondent's absence as it was satisfied that it was fair and just to do so.
5. The tribunal had before it the following copy documents:
 - (i) Application dated 2 August 2019 with statement of claim.
 - (ii) Short Assured Tenancy agreement between Mc Donald Letting and Respondent dated 1 December 2011 for let of the property from 21 December 2011 until 21 June 2012.
 - (iii) Rent statement.
 - (iv) Land certificate.
 - (v) Amended rent statement with arrears as at February 2020.
 - (vi) Amended statement of claim.
 - (vii) Email from applicant's solicitor explaining the position regarding the 3 owners of the property.

Discussion.

6. The tribunal noted that the applicant had complied with the tribunal's directions of 22 January 2020. The applicant had lodged an amended rent statement taking into account the payments made by the respondent. Mr Johnston advised that the respondent had contacted his firm after the last CMD and intimated the bank statements which had formed part of the discussion at the CMD on 22 January 2020. The tribunal noted that the bank statements had not been lodged with the tribunal in compliance with the direction but Mr Johnston was able to furnish the tribunal with a copy today. The banks statements showed that 12 payments of rent had been paid by the respondent and Mr Johnston confirmed that the 12 payments had been taken into account in the rent statement. The amended sum sought was £7080.
7. Mr Johnston advised that no further payments of rent had been paid in compliance with the tribunal's direction of 22 January 2020. His firm had provided the respondent with the applicant's bank details as per the direction but no payments had been received.
8. Mrs MacLeod explained that when the tenancy agreement was executed in 2011 she was acting as Attorney for her mother who died in 2015. She has always acted as the landlord and no formal letter was sent to the respondent when her mother died in 2015. She and her 2 sons now own the property and all 3 are registered landlords. Around 18 months ago the letting agent sold the company and difficulties have arisen as a result.

9. Findings in fact

- (1) The applicant is one of 3 owners of the property.
- (2) The applicant's deceased mother owned the property until her death in 2015.
- (3) The respondent entered into a short assured tenancy with the letting agent McDonald Leasing for let of the property from 21 December 2011 until 22 June 2013.
- (4) The agreed monthly rent was £475.
- (5) The lease continued by tacit relocation
- (6) Rent arrears began to accrue in February 2018.
- (7) The rent arrears as at February 2020 are £7080.

10. Reasons

The tribunal was satisfied that there was sufficient information before it today to make a decision and the procedure had been fair. The case has been adjourned on two occasions for further inquiries to be made. It is clear to the tribunal today that the sum of £7080 is owed in rent arrears. The sum of rent arrears of £7080 remains outstanding and the tribunal granted an order for this amount.

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.

Lesley A Ward

25 February 2020

Lesley A Ward Legal Member

Date