



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/18/3297

Re: Property at 16 Laxford Road, Glenrothes, KY6 2EB (“the Property”)

Parties:

Ms Yvonne Gray, 4 The Row, Letham, Cupar, KY15 7BS (“the Applicant”)

Mr Evgeniy Batchvarov, Ms Ivana Mitsina, 16 Laxford Road, Glenrothes, KY6 2EB (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment against the Respondent for payment to the applicant in the sum of £3300.00

Background

1. By application dated 6 December 2018 the Applicant’s representatives Robert F MacDonald, Solicitors, 11 Wemyssfield, Kirkcaldy applied to the Tribunal for an order for payment by the Respondents to the Applicant in the sum of £3300.00 in respect of alleged rent arrears arising from the Respondents lease of the property.
2. The applicant’s representative provided the Tribunal with a copy of the lease and a schedule of rental payments and rent due in support of the application.
3. By Notice of Acceptance dated 11 January a legal member of the Tribunal accepted the application and a case management discussion was assigned.

4. Intimation of the case management discussion was given to the Applicant's representative by post on 20 March 2019 and to the Respondents by Sheriff Officers on 21 March 2019.

The Case Management Discussion

5. The case management discussion was attended by Mr Robert MacDonald on behalf of the Applicant. There was no appearance by the Respondents. Mr Macdonald explained to the Tribunal that he had instructed Sheriff Officers to serve a Charge for Payment on the Respondents in respect of a previous order granted by the Tribunal against the Respondents for arrears of rent. He had received a report from the Sheriff Officers to the effect that when they attended at the property at the beginning of April the property appeared to be empty and they believed from making enquiries that the Respondents had returned to Bulgaria. In the circumstances as it nevertheless appeared that there had been proper service of the application on the Respondents by Sheriff Officers on 21 March the Tribunal continued with the case management discussion in the absence of the Respondents in accordance with Rule 29 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations").
6. Mr MacDonald confirmed that he had received confirmation from the Applicant that she had received no further rental payments since the Tribunal granted a previous order for payment on 29 November 2018. The additional rent due at the date of lodging the application was £3300.00 which was the sum claimed. A further four months rent amounting to £2600.00 had accrued since then but he was not seeking to amend the sum claimed. Mr Macdonald confirmed that had his client received any rent payment from the Respondents she would have confirmed this to him. He was certain no payment had been made. He asked the Tribunal to grant an order for payment in th sum of £3300.00.

Findings in Fact

7. The parties entered into a Short assured Tenancy Agreement that commenced on 1 December 2013 and endured for a period of six months and then continued on a month to month basis thereafter.
8. At the date of raising these proceedings and in addition to the arrears previously accrued and for which the Applicant has obtained an order for payment from the Tribunal the Respondents owed the Applicant £3300.00.
9. The Respondents have made no subsequent payment of rent to the Applicant and the sum of £3300.00 remains due.

Reasons for Decision

10. The Tribunal was satisfied from the documentary evidence and the information provided by the Applicant's representative, Mr Macdonald that the Respondents were due to pay the Applicant £650.00 per month by way of rent

for the property and that as at the date of raising these proceedings an additional £3300.00 of rent arrears had accrued.

11. The Tribunal was also satisfied that proper service of the proceedings had been given to the Respondents by Sheriff Officers.

12. The Applicant was therefore entitled to the order sought.

Decision

13. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £3300.00.

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.

Graham Harding

Legal Member/Chair

8 April 2019

Date