



**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 for Civil Proceedings in relation to an assured tenancy under the
Housing (Scotland) Act 1988**

Chamber Ref: FTS/HPC/CV/19/3354

Re: Property at 65 Main Street, Bannockburn, Stirling, FK7 8LX (“the Property”)

Parties:

Mr Stan Collins, 19 The Kirklands, Stirling, FK7 9BD (“the Applicant”)

Mr Chris Balanowski, 65 Main Street, Bannockburn, Stirling, FK7 8LX (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 16 of the Housing (Scotland) Act 2014 for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was represented Philip Anderson, Solicitor. The Applicant was not in attendance.

The Respondent attended the Tribunal personally.

Preliminary Matters

This Application had been due to be heard at a Case Management Discussions on 6th January 2020. Same was adjourned to allow parties to attend as no one appeared at that hearing. Parties were directed to provide explanations to the Tribunal about their non attendance. Parties had both provided in the Tribunal's view sufficient explanations.

The Applicant's representative confirmed that the relevant sum owed by the respondent to the Applicant as at the Tribunal date was £8550

The Respondent had submitted a purported Time to Pay Application to the Tribunal but same was incomplete. The Respondent advised he was in no position to make payments to the arrears and the Tribunal noted no Time to Pay Application was being advanced.

There were no other preliminary matters arising.

Matters Raised

The Tribunal confirmed with the Applicant's representative that no payments under the tenancy in the Applicant's view had been paid since April 2019. The rent statement in the Application confirmed that the Applicant's position was that the last payment made to the Tenancy was in April 2019. As at the Tribunal rent due was £8550. The Applicant's representative confirmed that a payment order for non payment to the amount of £8550 was sought.

The Respondent advised that he was waiting on alternative housing after his circumstances changed and he no longer cared for his grandchildren. In the meantime until he obtain social housing he could not meet the rental payments or arrears. He however disputed the amount of rent arrears and advised he made cash payments to the Applicant in May and June 2019 of £600 each. His position was that the rent arrears due by him were £7350.

The Applicant's representative sought an adjournment to take the Applicant's instructions on the disputed amount due. Following the adjournment the Applicant's representative advised he was instructed to seek an order of £7350 given the position of the Respondent,

There were no other matters arising.

Decision (in the absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") granted an order against the Respondents for payment of the sum of £7350 to the Applicant, under section 16 of the Housing (Scotland) Act 2014.

K. Kirk

Reasons for Decision and Findings in Fact

1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent was in a position to accept rent arrears to the sum of £7350, which was agreed by the Applicant.
2. The Applicant sought an Order for non payment of rent to the amount of £7350 after further consideration of matters and the position of the Respondent at the hearing..
3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
4. The Tribunal was satisfied that the relevant tenancy was in terms of of the 1988 Act, an Assured Tenancy properly constituted and dated 1st February 2017. The Tribunal was further satisfied that the rent due was £600 per month and on the evidence before the Tribunal no rental payments had been received to date under this said Tenancy since at least July 2019. A rental statement had been lodged by the Applicant evidencing the rent due. Further correspondence in the Application confirmed that no payments had been made by the Respondent since the Application had been lodged.
5. Parties were in agreement that the Order sought at the hearing should be £7350.
6. Accordingly in terms of Section 16 of the Housing (Scotland) Act 2014 the Tribunal granted a payment order against the Respondent for the sum of £7350

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.

K. Kirk



Legal Member/Chair

20/02/20.

Date