



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/19/2356

Re: Property at Farraline, 2A Paton Street, Inverness, IV2 4SN (“the Property”)

Parties:

Mrs Claude Beirne, 2 High Shore, MacDuff, AB44 1SL (“the Applicant”)

Mr Richard Bowler, Ms Niamh Wilkinson, ADDRESS UNKNOWN, ADDRESS UNKNOWN (“the Respondents”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determines that an order for payment should be granted in favour of the Applicant in the sum of £1300.

Background

This is an application dated 25th July 2019, brought under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”). The Applicant is seeking a payment order in respect of unpaid rent in the sum of £1300.

The parties entered into a tenancy agreement in respect of the Property that commenced on 29th November 2018. The rent was £650 per month. No rent was paid from February to July 2019. An order for payment in the sum of £2600 was made by a previous Tribunal on 24th July 2019, for arrears up to May 2019. The tenancy ended in August 2019. The Applicant lodged a copy of the tenancy agreement between the parties together with a rental statement and bank statements.

Service of the action and forthcoming Case Management Discussion upon the Respondents was attempted by Sheriff Officers on 23rd August 2019, by which time the Respondents were no longer living at the Property. Their forwarding address was unknown. Service by advertisement was carried out on the website of the First-tier

Tribunal for Scotland (Housing and Property Chamber) between 2nd October and 6th November 2019 in accordance with Rule 6A. Intimation was also provided to the Respondents by email.

By email dated 2nd October 2019, the Respondent, Ms Wilkinson, contacted the Housing and Property Chamber asking for further information in regard to the case and complaining that she did not have the bank details of the Applicant to make payment of the sums due under the previous order for payment. This was refuted by the Applicant by email dated 3rd October 2019, with evidence that her bank details had been provided on four occasions.

By email dated 3rd October 2019, the Respondent, Ms Wilkinson, informed the Housing and Property Chamber that she would not be in attendance at the forthcoming Case Management Discussion as she now lives in the south of England. Ms Wilkinson did not dispute that the sums outstanding were due.

The Case Management Discussion

A Case Management Discussion ("CMD") took place at Jury's Inn, Millburn Road, Inverness on 6th November 2019. The Applicant was present. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 as intimation of the CMD had been made upon the Respondents.

The Applicant said that the sum outstanding was £1300 and she was seeking an order for payment for that amount. She had been contacted again by the Respondent, Ms Wilkinson, regarding bank details. During their correspondence, Ms Wilkinson said Mr Bowler had now passed away. This had not been notified to the Tribunal.

Findings in Fact

1. In terms of the tenancy agreement between the parties, the Respondents agreed to pay rent of £650 to the Applicant.
2. The Respondents have failed to make payment of rent lawfully due to the Applicant.
3. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement.

Reasons for Decision

Rent lawfully due to the Applicant remains outstanding. The Applicant is entitled to recover the unpaid rent.

Decision

The Tribunal grants an order for payment in the sum of £1300 in favour of the Applicant.

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.

Helen Forbes

Legal Member/Chair

6th November 2019

Date