

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/18/0958

Re: Property at 85 Gateshouse Street, Shettleston, G32 9DB (“the Property”)

Parties:

Mr Brian Queen, 52 Whitehill Avenue, Glasgow, G33 6BN (“the Applicant”)

Miss Jennifer Darroch, Mr Derek Rodden, 85 Gateshouse Street, Shettleston, G32 9DB (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £3850 from Miss Jennifer Darroch to the Applicant.

Background

1. This case should be read in conjunction with FTS/HPC/EV/0957.
1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £3850 in terms of s16 of the Housing (Scotland) Act 2014.
2. The parties entered into a Short Assured Tenancy on 3rd July 2015 until 4th January 2016 (both days inclusive). The rent payments of £550 were due on or before the 1st of each month.
3. The Tribunal had before it the following documents:
 - a. Application dated 19th April 2018 and received by the Tribunal on 20th April 2018.

- b. Tenancy agreement between the parties signed 3rd July 2015 with the commencement of the tenancy on 3rd July 2015 for a 6 month period until 4th January 2016 and on a month to month basis thereafter.
 - c. Form AT5 signed by the parties on 3rd July 2015.
 - d. Certificate of intimation by sheriff officers service the Form AT6, section 33 notice and Notice to Quit. The Second Named Respondent accepted service at the Property on 16th March 2018.
 - e. Copy rent account from 3rd October 2017 to 2nd May 2018.
 - f. Section 11 notice.
 - g. Not of proceedings and outcome for Case Management Discussion ("CMD") held on 5th July 2018.
 - h. Certificates of intimation upon both Respondents at the same address dated 4th June 2018 serving the notice of the CMD on 3rd July 2018.
 - i. Rent arrears reminder letter sent to both Respondents dated 11th July 2018.
4. A CMD was held on 3rd July 2018. The case was continued to a further CMD to allow for the Applicant to coincide with the above eviction case being continued and for the First Named Respondent to confirm arrears due by her to the Applicant and for a section 11 notice to be sent into the Housing and Property Chamber. The Tribunal was informed that the Second Named Respondent was no longer living in the property. He did not appear at the hearing.

Case Management Discussion

5. The Tribunal held a Case Management Discussion ("CMD") on 28th June 2018. The Applicant was present. Ms Cooke from Coda Estates was present as the Applicant's representative. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal considered the Application. The Applicant stated that there has been no contact from the First Named Respondent since a few days after the last CMD. This was a telephone conversation with a member of staff from Coda Estates where the First Named Respondent offered to pay towards the arrears on 26th July 2018. This payment has not been forthcoming. There are no outstanding Housing Benefit issues. The Second Named Respondent is believed to have left the Property. Neither the Applicant nor his representative could confirm that date. The Applicant's representative provided an up to date rent statement showing the arrears have risen to £6050 to 2nd September 2018, when the next rent payment is due. The Tribunal was satisfied that the Second Named Defender had chosen not to attend either of the CMD's in connection to this case. The First Named Defender is believed to be in employment and the Second Named Defender is believed to be unemployed.

Findings in Fact

6. The parties entered into a Short Assured Tenancy on 3rd July 2015 for a 6 month period until 4th January 2016 and on a month to month basis thereafter. The lease was signed on 3rd July 2015. An AT5 was signed by both parties on the same date as the lease. The rent payments of £550 are due by the 1st day of each month.
7. The Housing and Property Chamber received an Application on 20th April 2018.
8. The Respondents have persistently not made rent payments. There have been more than 7 missed payments. The amount outstanding has risen to £6050.
9. There has been no payment of Housing Benefit to the Applicant or evidence of forthcoming payments.
10. It is unclear if the First Named Respondent remains in the Property. The Second Named Respondent is believed to have left the Property. No forwarding address is known for him.
11. The arrears due to the Applicant is in excess of £3850.

Reasons for Decision

12. The Respondents have failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 3rd October 2017 to 3rd April 2018 in which no payments have been made at all. The Applicant lodged an updated statement to the Tribunal. The Tribunal could not increase the amount sought, as this had not been notified upon the Respondents. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondents had persistently not paid the rent and were in arrears. The Tribunal accepted that the Respondents were liable under the tenancy on a joint and several basis and accordingly it was open to the applicant to pursue one joint tenant solely for the entire amount claimed. As it was understood by the Tribunal at the CMD on 3rd July 2018 that the Second Name Respondent was no longer in the property and no that there was no forwarding address no further correspondence was sent to him. As a consequence the Applicant was entitled to be granted the Order for payment of £3850 against the First Named Defender who is believed to be in the Property and has taken involvement with the proceedings.

Decision

13. The Applicant is entitled to for an order of payment of £3850 by Miss Jennifer Darroch. The Order was granted against the First

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.

GABRIELLE MILLER

Legal Member/Chair

28 April 18

Date