



**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/HPG/CV/18/2180

Re: Property at 33 Gillbank Avenue, Carluke, ML8 5UW (“the Property”)

Parties:

Mr Jamie Roseweir, 25 Buchanan Drive, Carluke, ML8 4RN (“the Applicant”)

Miss Emma Cavinue, 1 Park Avenue, Carluke , ML8 5DJ (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of rent arrears amounting to £3,955 in relation to an assured tenancy for the property.

The application contained:-

- a copy of the Tenancy Agreement;
- a copy of the rental schedule from 5/6/17 until 5/8/18 ; and
- A copy of all payments from 23/6/17 until 17/5/18.

The Applicant’s representatives, Lynn Bridges and Graham Bridges, from Messrs S&J Property Letting Limited, attended on behalf of the Applicant.

There was no appearance from the Respondent. As I was satisfied that the Respondent had had formal notice of today's hearing I was prepared to proceed with the hearing today.

Notice of the Hearing together with a copy of the application and confirmation that the Respondent could make written representations in response to the application on or before 14 November 2018, had been served on the Respondent on 29 October 2018. No written representations had been received from the Respondent.

Hearing

As a preliminary issue, the Applicant advised that the Respondent's address was now 1 Park Avenue, Carlisle, ML8 5DJ. They had been advised of this change by the Tribunal Office and also by the Respondent herself on 29 October 2018. They moved to amend the address of the Respondent. I allowed this amendment.

The Applicant's representative advised that the rent arrears were still outstanding as at today's date. The Respondent had now vacated the Property. The arrears had not increased. The Respondent had not however made any further payments to the arrears since the payment of £55 on 17 May 2018. The Applicant had requested that the Respondent make repayments but no further payments had been made by the Respondent.

Findings in Fact

The Tribunal found the following facts to be established:

A tenancy agreement was entered into between the Applicant and the Respondent for the property and existed between the parties. It was entered into on 5 June 2017.

Clause 2 of the tenancy agreement provided that rent of £480 was due per calendar month in advance by the Respondent to the Applicant.

That the rentals statements showed the monthly rental payments due and the months when rent had been paid. The tenant payment summary showed the actual payments which the Respondent had made and when they were made. The rent arrears which appeared to be outstanding as at 5 September 2018 were £3955.

The Applicant provided a copy of a text message from the Respondent advising that she had left the property on 17 September 2018.

Reasons for Decision

Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to actions arising following from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988.

As this tenancy is an assured tenancy I am content that I have jurisdiction to deal with this with this case.

There was no response or appearance from the Respondent.

The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to pay her rent. There was submitted a rental statement showing the rent paid and arrears due. Additional information provided today by the Applicant showed that the Respondent had now vacated the property.

On the basis of the evidence submitted, I consider that I should make an order for the sum sued for.

Decision

I grant an order in favour of the Applicant for the Sum of THREE THOUSAND NINE HUNDRED AND FIFTY FIVE POUNDS (£3955.00) STERLING

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.

Melanie Barbour

20.11.19

Legal Member/Chair

Date