



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/PR/21/1018

Re: Property at 36 Strathallan Avenue, East Kilbride, G75 8GX (“the Property”)

Parties:

Mrs Angela Hillen, Fairways, Drumpellier Avenue, Coatbridge, ML5 1RX (“the Applicant”)

Mr Tariq Ali, 11 Macrae Gardens, East Kilbride, G74 4TP (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted in favour of the Applicant to the amount of £15000 (FIFTEEN THOUSAND POUNDS).

Background

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 £15 000 in terms of s16 of the Housing (Scotland) Act 2014.
2. The Tribunal had before it the following documents:
 - a) Application dated 27th April 2021;
 - b) Tenancy agreement between the parties with the commencement of the tenancy on 1st February 2016 for a 6 month period until 29th July 2016 and on a month to month basis thereafter;
 - c) Copies of various text messages from 25th April 2016 to 29th April 2019;
 - d) Bank statements from 1st January 2015 to 31st May 2017; and
 - e) Rent account detailing outstanding arrears amounting to £15000.

3. On 17th June 2021, all parties were written to with the date for the Case Management Discussion (“CMD”) of 26th July 2021 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 8th July 2021.
4. On 17th June 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by leaving it in the hands of a household member. This was evidenced by Certificate of Citation dated 17th June 2021.

Case Management Discussion (“CMD”)

5. A CMD was held on 26th July 2021 at 11.30am by teleconferencing. The Applicant represented herself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make any representations in advance of the hearing.
6. The Applicant informed the Tribunal that she had not made the application sooner as the Respondent had moved and she did not know where he was living. By text message he had implied to her that he was out of work. The last text message the Applicant received from the Respondent was in early 2020. With the lockdown restrictions the Applicant has focused on other personal issues. She instructed a tracer to find the Respondent and submitted an application shortly after. The Respondent had noted in the text messages that he was aware of the outstanding rent arrears. The Applicant informed the Tribunal that the Respondent would miss one payment and then only pay the rent charge due next month without catching up on the missed payment. As the rent charge was £1200 the arrears grew quickly. The Tribunal was satisfied that there were no issues of prescription but noted that it would be better practice to raise an application earlier. The Applicant confirmed that there have been no offers of payment, that there were no Housing Benefit/Universal Credit Housing Element issues outstanding and no issues of reasonableness. The Tribunal was satisfied that it was appropriate to grant an order for the outstanding amount of £15000. This amount had been notified to the Respondent with the papers that were served upon him by the Sheriff Officers.

Findings in Fact

7. The parties entered into a Short Assured Tenancy on in July 2015. The Applicant submitted the most recent lease which commenced on 1st February 2016 which was for a 6 month period until 29th July 2016 and on a month to month basis thereafter. The rent payments of £1200 are due by the 22nd day of each month.
8. The Housing and Property Chamber received an Application dated 27th April 2021.

9. The Respondent has persistently not made rent payments. There have been more than 3 missed payments.

10. There are no outstanding Housing Benefit issues.

11. The arrears due to the Applicant amounts to £1500.

Reasons for Decision

12. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant lodged a rent statement for the period June 2015 to May 2017 in which payments have been missed to the amount of £15000 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before it. The Tribunal decided that the Respondent had persistently not paid the rent and was in arrears. There has been no attempt to pay the outstanding arrears since he left the Property in 2017. As a consequence the Applicant was entitled to be granted the Order for payment of £15000 against the Respondent.

Decision

13. The Applicant is entitled to an order of payment of £15000 by the Respondent. The Order was granted against the Respondent.

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.



26th July 2021

Legal Member/Chair

Date