



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) 2014

Chamber Ref: FTS/HPC/CV/23/0087

Re: Property at 43 Marshall Gardens, Kilmaurs, KA3 2TZ (“the Property”)

Parties:

Mr Stuart Heaney, Stuzo Croft, Auchenlough, Ayrshire, KA4 8NP (“the Applicant”)

Mrs Pauline Lamont, 43 Marshall Gardens, Kilmaurs, KA3 2TZ (“the Respondent”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £8,295.

Background

1. The Applicant submitted an application under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the Respondent.
2. By decision dated 12 April 2023, a Convenor of the Housing and Property Chamber, having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 13 April 2023. Letters were issued on 28 April 2023 informing both parties that a CMD had been assigned for 6 June 2023 at 11.30am, which was to take place by conference call. In that letter, the parties were also told that they required to

take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 19 May 2023.

4. On 19 May 2023, the Tribunal received written representations from the Respondent and a time to pay application.

The case management discussion

5. The CMD took place by conference call. The Applicant was represented by Mr David Mackie and the Respondent joined the conference call personally. The Tribunal noted that the application proceeds against the Respondent alone and has not been served on the joint tenant. The Applicant's representative had understood that the application was to be served on both tenants. However, the Applicant's representative did not wish to delay proceedings and wished to proceed against the Respondent alone.
6. The Tribunal noted the letter from the Applicant's representative dated 14 February 2023, which referred to the rent increase notice. The Applicant's representative conceded that the rent increase notice was defective and therefore rent continued to be charge at the rate of £795 per month. He explained that, excluding June 2023, the rent arrears have increased to £8,295.
7. The Respondent accepted that rent arrears currently amount to £8,295. She explained that she and her husband are in the process of vacating the property and they intend to return the keys today or tomorrow. The Respondent explained that she is unable to pay the sum outstanding. She made an application for a time to pay direction, although most of that application was illegible. The Respondent offered payment at the rate of £50 per month. At the rate offered, the Tribunal observed that it would take almost 14 years to repay the debt, which the Tribunal considered an unreasonable period of time for the Applicant to wait for payment.

Findings in Fact

8. The parties entered into a short assured tenancy which commenced 6 May 2016.
9. The contractual monthly rent was £795, payable in advance.
10. The Respondent incurred rent arrears of £8,295.

Reason for Decision

11. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondent participated in the discussion

and accepted the level of rent arrears. The Tribunal was satisfied that sum is due to the Applicant in respect of rent arrears.

12. The Respondent offered payment by instalments of £50 per month. Given the length of time it would take to repay the debt, the Tribunal refused the time to pay application.

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.

Nicola Irvine

Legal Member/Chair

6 June 2023

Date