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/18/1750

Re: Property at 36 Rigghead, Stewartpm, Kilmarnock, KA3 3DH ("the Property")

Parties:

Dr Lachlan McMillan, 95 High Street, Stewarton, Kilmarnock, KA3 5AX ("the Applicant")

Mr Stephen Murphy, 36 Rigghead, Stewartpm, Kilmarnock, KA3 3DH ("the Respondent")

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Respondent shall make a payment to the Applicant of the sum of two thousand nine hundred and seventy five pounds in respect of rent arrears for the property at 36 Rigghead Stewarton Kilmarnock KA3 3DH.

This is case management discussion regarding an application for payment in respect of rent arrears for the property at 36 Rigghead Stewarton KA2 3DH in terms of rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Rules 2017. 'the rules'. The application was made by Dr Lachlan McMillan on 11 July 2018.

The tribunal had before it the following copy documents:-

1. Application dated 5 July 2018 and received by the Tribunal on 11 July 2018.
2. Tenancy agreement dated 7 November 2016.
3. Bank statements from 18 December 2017 to 9 July 2018.
   Lesley Ward

4. Receipts numbered 27 to 43 (not inclusive).
5. Sheriff Officer's execution of service of the application and case management discussion on Respondent dated 3 September 2018.

The Applicant attended today's hearing. The Respondent did not attend and was not represented. The tribunal administration received a telephone call from the Respondent to advise that he would not be attending and he was told he would be notified of the decision in due course.

The parties entered into a tenancy agreement for the property at 36 Rigghead Stewarton Kilmarnock KA3 3DH. The copy lease is undated. The testing clause at the end states that it is signed "on the said month and year". The lease refers to the start date as 7 November 2016 and terminating on 6 May 2017. Given that the AT5 is dated 7 November 2016 it is reasonable to conclude that the lease was signed on 7 November 2016.

Discussion

The Applicant's evidence to the tribunal was that there are rent arrears owed by the Respondent for January to July 2018 inclusive totalling £2975. The rent due is £425 per month. The bank statements lodged are to illustrate that no payments have been received from the Respondent for this period. The Applicant was seeking an order for this sum today together with interest as stated in the application and clause 4 of the tenancy agreement. The Applicant had no evidence to lodge concerning the interest calculation and the evidence from the bank of Scotland set out in the agreement. The Applicant intends to make a new application for the arrears since July 2018 and the interest.

Reasons

The tribunal is satisfied that the Respondent has had fair notice of the case management discussion. The tribunal is satisfied that it has sufficient evidence before it today to make a decision and the procedure has been fair. The tribunal accordingly made an order for the Respondent to make payment to the Applicant of sum of two thousand nine hundred and fifty pounds in respect of rent arrears for 36 Rigghead Stewarton from January 2018 until July 2018.
Lesley Ward

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.

Lesley Ward

Lesley A Ward Legal Member   **17 September 2018**