

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 18 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/CV/18/1824

Re: Property at Pittensorn Farmhouse, Murthly, PH1 4HW ("the Property")

Parties:

Murthly & Strathbraan Estates, C/O Bidwells, 5 Atholl Place, Perth, PH1 5NE ("the Applicant")

Mr Paul Viviani, Mrs Jacqueline Viviani, Pittensorn Farmhouse, Murthly, PH1 4HW ("the Respondents")

Tribunal Members:

Colin Dunipace (Legal Member) and Leslie Forrest (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an Order for Payment in the sum of £8,800 (Eight Thousand Eight Hundred Pounds) should be granted.

Background

An application was made to the Tribunal on 18 July 2018 seeking an order for payment of unpaid rent in the sum of £8,800 in terms of rule 70 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 rules") in respect of sums due relating to the Respondents' occupation of the property noted above. A Short Assured Tenancy had been in place since 1 March 2016 with rent due of £800 per month.

The Hearing

A hearing took place on 5 October 2018 in the Inveralmond Business Centre, Perth at 10am. The Applicants were represented by Ms Jane McNicoll of McNab's. Mrs Jacqueline Viviani (the second Respondent in this case) was present and indicated that she was representing herself and Mr Paul Viviani (the first Respondent).

The Applicant's representative provided the Tribunal with an up to date rent statement showing rents due for the period 1 October 2017 to 31 October 2018 (the

latter being due for payment on 1 October 2018). The Respondent indicated that she had received a copy of this from the Applicants in the post.

The Tribunal enquired whether the Respondent agreed that the Rent Statement represented an accurate and up to date position with regard to rent payments due and paid. She indicated that she agreed that this was the case.

The Respondent stated that the reasons why the rent payments had come to be overdue related to a period when a bank error had meant that payments of rent had been sent by her bank via Standing Order but that she had mistakenly entered the wrong recipients bank details when setting the Standing Order up. She stated that she had not been aware that payments were not reaching the Applicant until February of 2018 by which time she was already several months behind in rent payments. Additionally she stated that her husband's business had a change of payment terms and this meant that their cashflow situation had changed and she had made other due payments rather than paying the rent. Other family matters had contributed to them getting behind in their rent although she was hopeful of clearing the amounts due by next Spring if given the opportunity.

The Tribunal enquired as to whether the Respondent had any evidence from her bank to support her statement about the Standing Order error, however she stated that she did not.

Findings in Fact

- A valid Short Assured Tenancy was in place between the parties
- In respect of the Tenancy, rent of £800 per month was due from the Respondents to the Applicant
- Due rent payments totalling £8,800 remain unpaid as of the date of the hearing, representing the equivalent of 11 months rent

Reasons for Decision

In terms of rule 70 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) the Tribunal found that rent lawfully due had not been paid. The Respondent did not dispute the amount sought and stated that it was correct.

Decision

Accordingly an Order for payment of the amount sought in the application (£8,800) was granted by the Tribunal.

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.

Colin Dunipace

Legal Member/Chair

5/10/10

Date