



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/21/0023

Re: Property at 8 Rintoul Avenue, Blairhall, Dunfermline, KY12 9PW (“the Property”)

Parties:

Mr Brian Robinson, The Croft, 21 Main Street, Carnock, Dunfermline, KY12 9JG (“the Applicant”)

Ms Cathrine Wood, 8 Rintoul Avenue, Blairhall, Dunfermline, KY12 9PW (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of THREE THOUSAND EIGHT HUNDRED AND NINE POUNDS (£3809) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. By application dated 4 January 2021, the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

2. The application was accompanied by a copy of a Private Residential Tenancy between the parties, a rent statement and text messages between the parties.
3. On 19 January 2021, the Tribunal accepted the application under Rule 9 of the Regulations 2017.
4. On 25 January 2021 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 26 February 2021. The Respondent required to lodge written submissions by 15 February 2021. This paperwork was served on the Respondent by Roderick Stevenson, Sheriff Officer, Kirkcaldy on 3 February 2021 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with the Case Management Discussion on 26 February 2021 by way of teleconference. The Applicant was in attendance with his wife, Mrs Robinson. Mrs Robinson advised that she was representing the Applicant. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
6. The Tribunal had before it the Private Residential Tenancy between the parties, a rent statement to December 2020 and various text messages between the parties.
7. Mrs Robinson asked the Tribunal to grant an order for payment for £3809. She explained that the tenancy agreement had been sent to the Respondent by email but not returned signed by the Respondent who only had the use of a phone. The Tribunal noted the tenancy commenced on 26 April 2019. Although Clause 7 of the tenancy agreement provided that the monthly rent was £444.50 Mrs Robinson explained that the Applicant accepted that the rent at £444 per month. She referred to the rent statement and pointed out there were shortfalls in the rent paid in September 2019 and March and July 2020 as well as missed payments in November and December 2019, June 2020 and September, October, November and December 2020. She explained the arrears had now increased to £4697. The Tribunal noted the last payment was of £444 on 21 August 2020. Mrs Robinson referred to text messages with the Respondent and explained she had never received a straight forward explanation as to why rent was not being paid. Communication with the Respondent was only good when the Respondent wanted something such as repairs carried out.

Findings in Fact

8. The Applicant and the Respondent agreed by way of Private Residential Tenancy Agreement with a start date of 26 April 2019 in relation to the Property that the Respondent would pay the Applicant a calendar monthly rent of £444.50. Despite that, the rent was accepted by both parties as being £444 per month.
9. The Respondent fell into arrears of rent. The Respondent had shortfalls of rent in September 2019 and March and July 2020. The Respondent missed payment of rent in November and December 2019, June 2020 and September, October, November and December 2020. The last payment to account was £444 on 21 August 2020.
10. The Respondent made no further payments of rent. Arrears to 26 February 2021 are £4697.

Reasons for Decision

11. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made on behalf of the Applicant. The Tribunal noted the content of the rent statement lodged which showed the Respondent how arrears had accrued as well as the text messages in relation to the arrears. The Applicant had produced evidence of persistent non- payment of rent with reference to the tenancy agreement, the rent statement and the text messages. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of these documents, together with the oral submission from Mrs Robinson that the order for payment in favour of the Applicant be granted.


Decision

12. The Tribunal granted an order for payment of £3809.

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.




Legal Member

26 February 2021
Date