



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/0108

Re: Property at 106 Abernethy Road, Barnhill, Dundee, DD5 2PG (“the Property”)

Parties:

Ms Kirsten Ferguson, 9A The Holdings, Barns of Claverhouse, Dundee, DD3 0QF (“the Applicant”)

Mr John McCartney, 106 Abernethy Road, Barnhill, Dundee, DD5 2PG (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum sought by the Applicant as rent arrears of £3437.06 was lawfully due from the Respondent, and granted an order for payment, of that sum, by the Respondent, to the Applicant.

Background

1. By an application dated 15th January 2021 (“the application”), the Applicant sought an order for payment of £3912.060 being rent arrears.
2. A copy of the application, along with a letter from the Tribunal giving details of the proposed Case Management Discussion, were served upon the Respondent by Sheriff Officers on 5th February 2021.

The Case Management Discussion (“CMD”)

3. A CMD took place by telephone conference on 9th March 2021. The Applicant did not join the CMD call. She were represented at the CMD by Mr Jack Ramsay of Westburn Services, Property Letting Agents. Mr Ramsay had previously exhibited written confirmation, from the Applicant, that he had been asked to represent the Applicant at the CMD.
4. The Respondent did not join the CMD call. The Respondent has not made any written representation to the Tribunal in advance of the CMD. The Respondent had been intimated with the date and time of the CMD by Sheriff Officers. The Tribunal was satisfied that the requirements of rule 24(1) of the Tribunal Regulations (regarding the giving of notice of a hearing) had been duly complied with, and proceeded with the application in accordance with Rule 29 of those Regulations.
5. At the CMD the Tribunal was able to consider:
 - a. The terms of the tenancy agreement between the parties
 - b. Statement of rent and arrears lodged by the Applicant showing total rent arrears due by the Respondent as at 15th January 2021 in the sum of £3912.06
6. At the CMD the Applicants’ representative confirmed that the Respondent continued to remain in occupation of the Property.

Further Information

7. The Applicant’s representative explained that the Respondent had recently secured employment and is now making some payments towards current rent and the arrears of rent which had accrued. He further advised the Tribunal that, as at the date of the CMD, the rent arrears due by the Respondent had reduced to £3437.06. Although the Respondent had started to make some payments towards the arrears of rent accrued, the Applicant’s representative explained that such payments were erratic and uncertain in amount and frequency. In the circumstances the Applicant wished to seek a payment order for the outstanding balance of rent arrears, due as at the date of the CMD, being £3437.06.
8. Under rule 17(4) of the schedule to the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (the Procedure Rules) the First-Tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Applicants asked the Tribunal to grant an order for payment against the Respondent in favour of the Applicants for the amended sum of £3437.06.

Findings in fact, and in fact and law; reasons for decision

9. The Applicant let the Property to the Respondent in terms of a written tenancy agreement which commenced on 11th October 2019. That agreement states, in clause 8, that the rent payable in terms of the tenancy agreement is £475.00 per calendar month.
10. The Respondent has accrued rent arrears under the terms of his tenancy agreement in relation to the property in the sum of £3437.06 as at the date of the CMD.
11. The Respondent is due to pay the Landlord the sum of £3437.06.

Decision

12. The Tribunal accordingly granted an order for payment by the Respondent to the Applicant in the sum of £3437.06

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.

A. Cowan

Legal Member/Chair

9th March 2021
Date