



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/19/1083

Re: Property at 31 Overton Road, Kirkcaldy, KY1 2DX (“the Property”)

Parties:

Ms Margaret Dick, Nemphlar Muirhead Quarry, Cardenden, Lochgelly, KY5 0AU (“the Applicant”)

Mr Stuart David Kay and Mrs Lynn Kay, 31 Overton Road, Kirkcaldy, KY1 2DX; 31 Overton Road, Kirkcaldy, KY1 2DX, jointly and severally (“the Respondents”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £2,880 to the Applicant in relation to rent arrears due by the Respondents.
2. The application contained:-
 - a copy of the tenancy agreement, and
 - rental statement
3. By way of email of 8 June 2019 the Applicant moved to amend the application in terms of rule 14A of the Tribunal Rules and seek an order for payment for

the sum of £3,840. There was submitted an updated rental statement with the Applicant's email. A copy of the Applicant's email seeking to amend the amount sued for and the updated rental statement was sent to the Respondents on 12 June 2019.

4. The Applicants' local agent Mr Christie, from Ross & Connell appeared for principal agents Messrs Gilson Gray on behalf of the Applicant. There was no appearance by the Respondents.
5. Notice of the Hearing had been served on the Respondents by sheriff officers on 29 May 2019. As I was satisfied that the Respondents had been served with notice of today's hearing and that they had also had notice of the amendment to the sum sued for in the application, I was therefore prepared to proceed with today's hearing in their absence. I was also prepared to amend the sum sought in respect of the application.

Hearing

6. The Applicants' agent referred me to the papers which had been lodged in support of the application, including the tenancy agreement, and rent account statement. This application related to unpaid rent due in terms of that agreement. The Respondent had failed to make regular rental payments since November 2018.
7. The Applicant's agent provided an updated rent account and advised that the current level of arrears were £3840. The last rental payment received was on around 1 December 2018 for £480.
8. The Applicants' agent advised that the rent arrears were still outstanding as at today's date. There had been no further payments towards the rent arrears by the Respondent other than as set out in the rental statement lodged by the application. Arrears of £3840 were due.

Findings in Fact

9. The Tribunal found the following facts to be established:
10. A tenancy agreement was entered into between the Applicant and the Respondent for the property and existed between the parties. It was entered into on 1 July 2018.
11. Clause 7 in the tenancy agreement provided that monthly rent was £480 and the rent payment date was 1st of each month. Clause 7 of the tenancy agreement provided that monthly rent was due in advance.
12. That the rental statement showed amounts due each month, amounts received, and rent outstanding.

13. That the rental statement showed total rent arrears outstanding as at 1 June 2019 being £3840.
14. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

Reasons for Decision

15. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies.
16. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
17. There was no response or appearance from the Respondent but they had been notified of today's hearing.
18. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was submitted a rental statement showing the arrears due and additional information provided today by the Applicant's agent was that there had been no further payments towards the rent arrears and this was therefore the sum still outstanding.
19. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued for.

Decision

I grant an order in favour of the Applicant for THREE THOUSAND EIGHT HUNDRED AND FORTY POUNDS (£3,840) STERLING against the Respondents jointly and severally.

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.

Melanie Barbour

1. 7. 19

Legal Member/Chair

Date