



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/PR/20/2662

Re: Property at 1 Dalquhurn Gardens, Renton, G82 4LA (“the Property”)

Parties:

Kirsty Fort, Mr Kelvin Fort, 27 Hayes Square, Cranbrook, Exeter, EX5 7AT; 27 Hayes Square, Cranbrook, Exeter, EX5 7AT (“the Applicant”)

Miss Kirsty Morris, 1 Dalquhurn Gardens, Renton, G82 4LA (“the Respondent”)

Tribunal Members:

Mark Thorley (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent to the applicant in the sum of £5,000 be made.

Background

The applicant applied to the First-tier Tribunal for Scotland under Rule 110 seeking a payment order for the sum of initially £1,800 against the respondent. Accompanying the application were a paper apart together with a copy of the Tenancy Agreement, a copy of the letter to the respondent dated 3 November 2020 and in addition a Notice to leave to the respondent dated 17 November 2020. By letter dated 15 January the Tribunal wrote to the applicant’s agents seeking further information and clarification as the rule upon which the application was made. It was noted that this was an application that should proceed under Rule 111. An amended application was lodged and a payment sought then in the sum of £2,600. Accompanying that was a copy of the transaction sheet involving the respondent. By letter dated 25 January the Tribunal acknowledged receipt of the application on 29 January it was determined that the application was accepted. A case management hearing was then assigned for 10 March at 2 pm.

On 10 March the applicant was represented and the respondent also attended. There was an acknowledgement of outstanding rent arrears but issues were raised at the time by the respondent regarding the state of habitation of the property. She also indicated that she had spent money on the property upgrading it and there was an agreement with the applicant that these funds would be repaid but that she would provide receipts for that. There remained other work apparently to be undertaken on the property. At that stage it was agreed that the case management hearing would be continued to allow for receipts to be provided but also for access to tradesmen to undertake work.

The case called again on 1 April. Again the respondent indicated she would allow tradesmen to attend at the property, that she would allow a surveyor in to inspect the property and that she would provide receipts for the work undertaken by herself.

No further communication was received by the Tribunal from the date of the case management hearing on 1 April.

Case Management Discussion

At the case management discussion only Ms Bell from Friends Legal acting on behalf of the applicant attended. The respondent was not present on the telephone. Attempts were made to contact the respondent by mobile telephone without success.

Ms Bell was able to provide an update following upon the last case management hearing. Attempts had been made to get tradesmen into the property but without success. There had been three appointments all had been cancelled.

A surveyor had not managed to obtain access to the property.

No receipts have been made available by the respondent.

At the last case management hearing it was acknowledged by the respondent that the sum of £5,000 was due in terms of rent.

Findings in Fact

1. That the parties entered into a Tenancy Agreement dated 18 February 2019 for the premises at 1 Dalquhurn Gardens, Renton.
2. That rent was due to be paid at the rate of £750 per calendar month.
3. That as at 1 April 2021 the sum of £5,000 was outstanding in terms of rent.

Reasons for decision

There have been two previous case management hearings prior to 10 May. On both of these occasions the respondent had been present and had indicated that she accepted there was rent due but she indicated that there was issues surrounding the property and that she had done works to the property which required to be paid for and that she had receipts for that.

The respondent did not attend at the case management conference. She had produced no receipts.

Access to the property had not been allowed following upon the direction that had been made on 1 April for tradesmen to attend at the property to identify the scope of works and to do any works.

The respondent also agreed that a surveyor could attend at the property but the surveyor had not been provided with access.

The respondent had also indicated (again) that she would provide receipts for the work that she said she had done to the property.

It appeared to be accepted that rent as at 1 April in the sum of £5,000 was outstanding.

The respondent did not attend at the case management hearing. She produced no receipts of any of the work that she said she had undertaken. It appeared that access had not been allowed to tradesmen to enter the property.

On the basis of the acceptance of the sum due as at 1 April an order was made for that amount. Ms Bell did not seek to increase the amount that was due on the basis this would require intimation to the respondent which had not been given.

This was the third case management hearing in the case. The respondent had not produced anything in terms of receipts. There was an acceptance of the rent figure that was due.

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent to the applicant in the sum of £5,000 be made.

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: Mark Thorley

Date: 10 May 2021