



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/19/4024

Re: Property at 25 Greenburn Terrace, Bucksburn, Aberdeen, AB21 9AX (“the Property”)

Parties:

Mr Michael Stark, 370 Auchmill Road, Bucksburn, Aberdeen, AB21 9NL (“the Applicant”)

Mr Connor Brown, Flat 2/R, 10 Richmond Terrace, Aberdeen, AB25 2RL (“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 £2,919.35 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 19th December 2019 (“the application”), the Applicant sought an order for payment of £1,500.00, being rent arrears.
2. At a case management discussion (“CMD”) held on 8th July 2020 the Tribunal adjourned the CMD to allow full copies of the Application to be served upon the Respondent.
3. At a further case management discussion (“CMD”) held on 24th August 2020 the Tribunal again adjourned the CMD. This adjournment was granted to allow the Respondent an opportunity seek advice in relation to the application.

4. Both the Applicant and the Respondent attended the CMDs on 8th July 2020 and 24th August 2020.
5. By letter dated 17th September 2020 the Tribunal intimated this further CMD hearing and confirmed the date and time of this CMD as 7th October 2020 at 1130. The Letter to the Respondent was sent by recorded delivery.
6. By letter dated 16th September the Applicant lodged a letter with the Tribunal in which he sought to demonstrate that, by that date, the rent arrears due by the Respondent had increased to £2919.35. A copy of this letter was intimated upon the Respondent by the Tribunal.

The CMD

7. The CMD took place by telephone conference on 7th October 2020. The Applicant joined the conference call and was accompanied by his wife, Mrs Maria Stark. The Respondent did not join the CMD call. The Respondent had 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 recorded delivery. 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.
8. At the CMD the Tribunal was able to consider:
 - a. The terms of the tenancy agreement between the parties dated 30th June 2018 and
 - b. Statement of rent and arrears lodged by the Applicant showing total rent arrears due by the Respondent as at 26th March 2020 (being the date the tenancy agreement between the parties ended) in the sum of £2919.35.
9. At the CMD the Applicant explained that the tenancy had terminated on 26th March 2020. At that date the Tenant had accrued arrears of rent in the sum of £2919.35. The Applicant requested that he be allowed to amend his application to seek payment of this higher sum of £2919.35. The Tribunal noted that the Applicant's request to amend the application was made in his letter to the Tribunal dated 16th September 2020. That letter had been copied to the Respondent by the Tribunal administration. The Applicant's request was made at least 14 days in advance of this CMD hearing. The Tribunal decided to grant the Applicant's request to increase the sum claimed in terms of Rule 14A of the Tribunal regulations.
10. The Applicant confirmed that no further payment had been made by the Respondent toward the rent arrears and that the sum of £2919.35 remained due for payment by the Respondent as at the date of the CMD.

11. 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.

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

12. The Applicant let the Property to the Respondent in terms of a written tenancy agreement dated 30th June 2018. That agreement states, in clause 3, that the rent payable in terms of the tenancy agreement is £500 per calendar month.

13. The Respondent has accrued rent arrears under the terms of his former tenancy agreement in relation to the property in the sum of £2919.35.

14. The rent arrears accrued by the Respondent between 1st October 2019 and 26th March 2020

15. The Tenancy Agreement between the parties terminated on 26th March 2020,

16. The sum of £2919.35 by way of rent arrears remains unpaid by the Respondent as at the date of the CMD.

Decision

17. The Tribunal accordingly granted an order for payment by the Respondent to the Applicant in the sum of £2919.35.

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.

Andrew Cowan

Andrew Cowan
Legal Member/Chair

7th October 2020
Date