



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 (Act)

Chamber Ref: FTS/HPC/CV/19/2948

Re: Property at 42/6 Gardners Crescent, Edinburgh, EH38DG (“the Property”)

Parties:

Mr Neil Rothnie, 70 Duthie Terrace, Aberdeen, AB10 7PR (“the Applicant”)

Ms Melanie Ruth James, Ms Jamie-Lee Ross, 475/2 Gorgie Road, Edinburgh, EH11 3AD; 2/5 Clearburn Gardens, Edinburgh, EH16 5ET (“the Respondents”)

Tribunal Members:

Alan Strain (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 against the Respondents jointly and severally be granted in the sum of £5,490.00.

Background

This is an application for payment of rent arrears in respect of a tenancy under section 71(1) of the Act and Rule 111 of the Tribunal Procedure Rules.

The Tribunal had regard to the following documents:

1. Application received 19 September 2019;
2. Private Residential Tenancy Agreement (PRTA) commencing 21 December 2017;
3. Schedule of Rent Arrears and cost of repairs as at 31 July 2018;
4. Copy text messages from Respondents in June/July 2019;
5. Sheriff Officer Certificate of Service dated 13 February 2020;
6. First Named Respondent’s Written Submissions dated 4 March 2020.

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Case Management Discussion (CMD)

The case called for a CMD on 13 March 2020. The Applicant appeared and represented himself. The First Named Respondent appeared and was accompanied by Mr Hameed. The Second Named Respondent did not appear and was not represented.

The Tribunal was satisfied that the Second Named Respondent had received notification of the CMD from Sheriff Officer's and that the Tribunal could determine the matter in their absence if satisfied that it had sufficient information to do so and the process was fair.

The Applicants confirmed that they were only seeking £5,490 in respect of rent arrears despite there being more than that sum due.

The First Named Respondents position was that she had left the Property in March 2018 and that the Applicants had been notified of this. She also stated that the Second Named Respondent had assured her that she would find another tenant and also take care of the rent. She accepted that she had not taken any formal steps to terminate the PRTA with the Applicants.

The Applicants confirmed that they had been told the First named Respondent had moved out but no formal steps were taken to terminate the PRTA in so far as she was concerned.

The Tribunal considered the documentation and made the following findings in fact:

1. The Parties entered in to the PRTA commencing 21 December 2017;
2. The monthly rent was £1,350;
3. As at the date of the Application the Respondents were £5,490 in rent arrears accrued for the period to 27 July 2018 when the PRTA terminated.

The Tribunal was satisfied that it had sufficient information to make a decision and that the procedure was fair. The Tribunal was satisfied that the Respondents were due the sum of £5,490 to the Applicant. The reason for this being that the Respondents were joint tenants of the Property and that the PRTA had not been terminated or varied in so far as the First named Respondent was concerned. As a consequence of that the First named Respondent's obligations under the PRTA continued as a matter of law and she remained liable, jointly with the Second named Respondent, for the rent arrears.

The Tribunal granted the order for payment sought.

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 Strain

13 March 2020

Legal Member/Chair

Date