



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/19/3233

Re: Property at 237 The Moorings, Dalgety Bay, Fife, KY11 9GP (“the Property”)

Parties:

Mr Ian Oliva, Flat 4, 43 Station Road, Corstorphine, Edinburgh, EH12 7AF (“the Applicant”)

Mr David Thomson, ADDRESS UNKNOWN, ADDRESS UNKNOWN (“the Respondent”)

Tribunal Members:

Yvonne McKenna (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 should be granted in favour of the Applicant in the sum of £4029.30 , under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Background

1. This is an application dated 7th October 2019 made in terms of Rule 111 of The Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicant is seeking an order for payment in respect of unpaid rent in the sum of £4029.30. The parties entered into a Private Residential Tenancy Agreement in respect of the Property which commenced on 17th July 2018. The rent was £565 per month. The tenancy ended on 5th September 2019 when an order for Recovery of Possession was granted by the Tribunal under a separate application reference FTS/HPC/EV/19/1784. The Respondent left the Property on 5th November

2019 following the eviction. The Applicant included a copy of the tenancy agreement and a schedule of rent arrears with the application.

2. The case was set down for a Case Management Discussion (“CMD”) on 15th January 2020. The CMD was continued as neither party attended, and the Tribunal needed the Applicant to confirm that the application was still being sought. The CMD was continued to 5th March 2020.

3. The CMD on 5th March 2020 was continued as again neither party attended. The last correspondence from the Applicant’s legal representative was in November 2019. The Applicant’s Representative was contacted to confirm if they were still acting. They were telephoned and confirmed they were no longer acting. The CMD was again continued until 28th April 2020 to allow the Applicant to be personally made aware of the date of the CMD.

4. By Order dated 19th March 2020, the CMD set down for 28th April 2020 was postponed to 28th May 2020, as part of the measures to manage the COVID19 outbreak.

5. By Order dated 20th May 2020, the CMD set down for 28th May 2020 was postponed to 9th July 2020, as part of the measures to manage the COVID-19 outbreak. Parties were notified that this date was merely a date set to comply with legislation and further details of the actual date when the case would be heard would be notified when the situation was more certain

6. By letter dated 25th June 2020 an earlier CMD was scheduled to take place on 7th August 2020 at 10am.

6. Service upon the Respondent was made by advertisement on the website of the First-tier Tribunal for Scotland Housing and Property Chamber from 25th June 2020.

The CMD

7. A CMD took place by telephone conference on 7th August 2020. The Applicant joined the CMD personally. The Respondent was not in attendance.

8. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that service upon the Respondents had been carried out by advertisement on the website of the First-tier Tribunal for Scotland Housing and Property Chamber. The Tribunal determined that the requirements of Rule 24(1) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant and the material before the Tribunal.

9. The Applicant moved the Tribunal to grant the order sought for arrears covering the period from February 2019 to September 2019, in the sum of £4029.30.

Findings in Fact

10. (i) The parties entered into a Private Residential Tenancy Agreement in respect of the Property commencing on 17TH July 2018.

(ii) The rent for the Property was £565 per month.

(iii) The Respondent failed to make payment of rent lawfully due in the sum of £4029.30.

(iv) The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

The Tribunal ordered the Respondent to pay the Applicant the sum of £4029.30

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.

Yvonne McKenna

Legal Member/Chair

7th August 2020

Date