



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 arising from Section 1 of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/0879

Re: Property at Flat 5, 2 West Pilton View, Edinburgh, EH4 4DY (“the Property”)

Parties:

Mr Anthony Gillham, 4 Aspenwood Grove, Newcastle, NE13 9DX (“the Applicant”)

Mr Mark Mitchell, Ms Caitlin Hunter, Flat 5, 2 West Pilton View, Edinburgh, EH4 4DY (“the Respondents”)

Tribunal Members:

Susan Christie (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order be granted for payment by the Respondents to the Applicant in the sum of £4,250.

Background

- 1 The Application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) was made, received by the Tribunal on 9 April 2021.
- 2 A Notice of Acceptance is dated 12 May 2021.
- 3 The Application seeks a payment Order for unpaid rent due under a Private Residential Tenancy.
- 4 A written amendment of the Application to increase the sum sought to £4250 was received prior to the application being accepted by the tribunal.
- 5 Written representations were due to be submitted by the Respondents by 15 June 2021. None were submitted.

The Case Management Discussion- 30 June 2021

- 6 A Case Management Discussion (CMD) took place today by conference call. The Applicant participated.
- 7 The Respondents did not participate. Certificates of Service of the paperwork on the Respondents by Sheriff Officer show the service being made on 25 May 2021, by letterbox and first class ordinary post. The Tribunal was satisfied that proper intimation had been made and proceeded with the CMD in their absence, the procedure having been fair.
- 8 The paperwork submitted along with the Application was examined and discussed alongside the associated application. This included a copy of the Private Residential Tenancy Agreement and rent schedules showing rent paid and rent due.
- 9 The Applicant is the registered co-owner of the Property, and he is declared as the landlord in the Private Residential Tenancy Agreement.
- 10 A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent on or around 14 September 2020, with a start date of 24 September 2020.
- 11 The rent is £850 per calendar month payable in advance on the 24th of the month into the letting agent client account.
- 12 A deposit of £850 was taken.
- 13 The rent account statements produced were considered. This showed that as of the posting on the account at 1 May 2021, five rental payments were not paid totalling £4,250. Technically the rent was due on 24th of every month. This is the sum sought by way of an order in this application and is also the sum intimated on the Respondents in the papers served.
- 14 The Applicant stated no further payments had been received since then. Further sums were now due, and a further application might be made in due course for any ongoing unpaid rent.

Findings in Fact

- I. A Private Residential Tenancy (PRT) was entered into between the Parties on or around on or around 14 September 2020, with a start date of 24 September 2020.
- II. The rent is £850 per calendar month, payable in advance on 24th of every month.
- III. The rent payments due for January to May 2021 inclusive remain unpaid, which brings out balance due in this application of £4,250.
- IV. The Respondents being in arrears of rent for the period up to and including that due on 24 May 2021, a payment Order is granted for £4,250 in favour of the Applicant.

Reasons for Decision & Decision

The Tribunal was satisfied a Private Residential Tenancy (PRT) was entered into between the Parties over the Property with a rent of £850 per calendar month payable in advance on the 24th of the month by payment to the letting agent who manages the Property. The Applicant explains the letting agent accounts to him every month for the balance of the rent due to him, after any deductions. He has been advised no payment of rent has been made since December 2020. The Applicant seeks an order for payment in this application for unpaid rent up to 24 May 2021.

The tenancy is ongoing.

The Tribunal is satisfied an order should be made today for £4,250 based on the paperwork produced by the Applicant. It had no indication of the Respondents position as they had not submitted written representations or a time to pay application and had not participated in today's CMD.

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.

Susan Christie

Legal Member/Chair

30 June 2021
Date