



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/22/3676

Re: Property at 6 Goldcrest Crescent, Lesmahagow, ML11 0GU (“the Property”)

Parties:

Mr Michael Jarvis, Mount Glorat, 54 Campsie Road, Milton of Campsie, GLASGOW, G66 8EF (“the Applicant”)

Miss Kaya Stewart previously of Flat 1 66 Spittal Road, Rutherglen, G73 4QD and whose current whereabouts are unknown (“the first named Respondent”) and Mr Anatoli Khaimov, whose current whereabouts are unknown (“the second named Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the second named Respondent in favour of the Applicant in the sum of TWO THOUSAND ONE HUNDRED AND SEVENTY FIVE POUNDS AND EIGHTY ONE PENCE (£2175.81) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents.

Background

- 1. This is an application dated 5 October 2022 for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**

2. The application was accompanied by a Private Residential Tenancy Agreement between the parties which commenced on 26 June 2020, a rent ledger, rent ledger notes and a tracing report from Stirling Park.
3. On 3 November 2022 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 29 November 2022 the Tribunal enclosed a copy of the application and invited the first named Respondent Ms Stewart to make written representations to the application by 20 December 2022. The Tribunal also advised her that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 2 February 2023. After attempting service at the first Respondent’s address, Sheriff Officers advised they were unable to serve these papers as she was no longer resident at the address provided. This paperwork was then served on the first named Respondent by way of Service by advertisement in terms of Rule 6A of the Regulations.
5. On 29 November 2022 the Tribunal emailed the second named Respondent Mr Khaimov to advise an application had been received and that it would proceed to a tribunal for determination. It further advised that as his current address details were unknown service would be made by advertisement on the Tribunal website with a link to the website. Mr Khaimov emailed the Tribunal on 29 November 2022 to enquire what the email from the Tribunal related to. On 8 December 2022 a copy of the case papers were sent via email as he provided no contact address. This paperwork was then served on the second named Respondent by way of Service by advertisement in terms of Rule 6A of the Regulations.
6. On 26 January 2023 the Applicant’s representative emailed the Tribunal requesting to amend the outstanding rent to £3,300.81. A further rent ledger was attached.

Case Management Discussion

7. The Tribunal proceeded with a CMD on 2 February 2023 by way of teleconference. The Applicant was represented by Ms McCulloch from Rent Locally . Both Respondents appeared on their own behalf.
8. The Tribunal had before it the Private Rented Tenancy Agreement, the rent ledger and notes and further rent ledger sent on 26 January 2023. The Tribunal considered these documents.
9. Ms McCulloch asked the Tribunal to grant an Order for repayment in the increased sum of £3300.81 to the end of the tenancy on 22 August 2022. On being questioned by the Tribunal with reference to the rent ledger lodged it became clear that sum included the sum of £1125 which had already been awarded against the Respondents on 10 June 2022 by the First-tier Tribunal for Scotland (Housing and Property Chamber). Ms McCulloch also advised

they had recovered the full deposit at the termination of the tenancy which had been applied to the arrears. Ms McCulloch accepted that this left an amount outstanding of £2175.81.

10. The first named Respondent Ms Stewart disputed that she was liable for any arrears since she left the Property in June 2022 following a breakdown in her relationship with the second named Respondent Mr Khaimov. She had accepted she was liable for £1125 in terms of the Order previously granted. The Tribunal pointed out that the sum of £1125 were the arrears to February 2022 and enquired if she accepted liability for arrears to June 2022 when she left the Property. She did not accept any liability for any arrears over £1125 and stated that Mr Khaimov should be liable.
11. The second named Respondent Mr Khaimov advised the Tribunal that he accepted sole responsibility for all arrears that had accrued over and above the sum of £1125 previously awarded. He accepted those additional arrears were £2175.81.

Findings in Fact

12. The Applicant and the Respondents agreed by way of Clause 8 of a Private Residential Tenancy Agreement commencing 26 June 2020 in relation to the Property that the Respondents would pay the Applicant a monthly rent of £575.
13. A previous Order for payment of £1125 by the First-tier Tribunal for Scotland (Housing and Property Chamber) against both Respondents was made on 10 June 2022.
14. Further arrears accrued until the tenancy agreement terminated on 22 August 2022. The full tenancy deposit was returned to the Applicant of £575 after termination.
15. Outstanding arrears under deduction of the amount previously awarded of £1125 and the deposit of £575 amount to £2175.81.
16. The second named Respondent accepts sole responsibility for those arrears.

Reasons for Decision

17. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Ms McCulloch for the Applicant and both Respondents.

18. The Tribunal noted the terms of the tenancy agreement and the rent ledgers lodged which set out how the arrears had arisen. Ms McCulloch had produced evidence of persistent non-payment of rent with reference to the rent ledgers. The second named Respondent accepted sole responsibility for the arrears. The Tribunal was satisfied on the basis of the documents, together with parties' submissions that the order for payment in favour of the Applicant be granted.

Decision

19. The Tribunal granted an order for payment of £2175.81.

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.

Shirley Evans

2 February 2023

Legal Member

Date