



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) Act 2016

Chamber Ref: FTS/HPC/CV/21/3196

Re: Property at 127 OVERTON CRESCENT, DENNY, FK6 5BA (“the Property”)

Parties:

WAYBRIDGE DEVELOPMENTS LTD, Brewlands House, Abbey Road, Dalkeith (“the Applicant”)

Mr David Graham, 127 OVERTON CRESCENT, DENNY, FK6 5BA (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of FOUR THOUSAND SEVEN HUNDRED AND NINETY FOUR POUNDS (£4794) STERLING from the date of this decision until payment. 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 Respondent.

Background

- 1. This is an application dated 22 December 2021 made by the Applicant’s solicitor 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 copy of a Private Residential Tenancy Agreement between the parties signed and dated 22 December 2020 and a rent statement to 22 November 2021 showing arrears of £3684.
3. On 10 January 2022, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 8 February 2022 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 22 March 2022. The Respondent required to lodge written submissions by 1 March 2022. This paperwork was served on the Respondent by William Wywalec, Sheriff Officer, Kirkcaldy on 9 February 2022 and the Execution of Service was received by the Tribunal administration.
5. On 28 February 2022 the Applicant's solicitor sent an updated rent statement and moved to amend the sum sought to £4794. The Respondent was copied into their email.

Case Management Discussion

6. The Tribunal proceeded with the CMD on 22 March 2022 by way of teleconference. The Applicant was represented by Mrs Royal from Gilston Gray, solicitors. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
7. The Tribunal had before it the Private Rented Tenancy Agreement between the parties signed and dated 22 December 2020, a rent statement to 22 November and an up to date rent statement to 22 February 2022 with the application to increase the sum sought from £3684 to £4794.
8. Mrs Royal moved the Tribunal to grant an Order for payment for the increased sum £4794. She pointed out the Respondent had been copied into her application to increase the sum sought. With reference to the rent statement, Mrs Royal advised the last payment to account was £200 on 6 May 2021. The Applicant had tried to get the Respondent to engage, but there had been no response to correspondence. The Applicant believes the Respondent is working. Mrs Royal also submitted the arrears were increasing as the Respondent was still in the Property. The Tribunal noted that in terms of Clause 8 of the tenancy agreement the monthly rent was £370.

Findings in Fact

9. The Applicant and the Respondent agreed by way of Clause 8 of a Private Residential Tenancy Agreement dated 22 December 2020 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £370.

10. The Respondent has fallen into arrears of rent. The arrears to 22 February 2022 are £4794. The Applicant has made efforts to obtain payment of the arrears from the Respondent. The Respondent has ignored the Applicant's correspondence. The Respondent continues to reside in the Property.

Reasons for Decision

11. The Tribunal considered the issues set out in the application together with the documents lodged in support and the application to amend the sum sought. Further the Tribunal considered the submissions made by Mrs Royal.

12. The Tribunal noted the content of the Applicant's solicitor's email to amend the sum sought with the rent statement to 22 February 2022 showing arrears had increased to £4794 from the original sum sought of £3684. The Tribunal noted the Respondent was included in that email. The Tribunal was satisfied the sum sought should be increased in terms of Rule 14 A of the Regulations, there being no new issue and the application being made more than 14 days before the CMD. The Applicant's representative had produced evidence of persistent non-payment of rent with reference to the tenancy agreement and the rent statement. The Respondent had not disputed the application. He had ignored all attempts to engage. The Tribunal was satisfied on the basis of these documents, together with Mrs Royal's submissions that the order for payment in favour of the Applicant be granted.

Decision

13. The Tribunal granted an order for payment of £4794.

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

Legal Member

22 March 2022

Date