



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/19/1965

Re: Property at Flat 1/3, 573 Cathcart Road, Govanhill, Glasgow, G42 8SG (“the Property”)

Parties:

Mrs Shahida Iqbal, 19 Morris Crescent, Motherwell, ML1 5NH (“the Applicant”)

Miss Ioana Florina Varga, Flat 31, 56 Boyd Street, Glasgow, G42 8AN (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Gerard Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £7,901.28 to the Applicant in relation to rent arrears and damages due by the Respondent.
2. The application contained:-
 - a copy of the tenancy agreement.
 - rental statement.
 - bank statements.
 - invoice from plumber.

- factoring account invoices.
3. There had been several earlier case management discussions for this application. Two directions had been issued seeking further documentation. The Respondent had originally appeared with legal representation. A hearing had been scheduled 12 August 2020. On 11 August 2020, the Respondent's agents had withdrawn from acting and indicated that the Respondent may be out of the country and they were not sure that she was aware of the hearing. Given this the hearing was adjourned for service to be made on the Respondent.
 4. The Respondent did not attend today's hearing. The notice of today's hearing had been sent to the Respondent by recorded delivery mail. The tribunal was in receipt of track and trace evidence that it had been signed for by "Varga" on 25 August 2020. Given that there was evidence that she had received notification today's hearing, the tribunal were prepared to proceed with today's hearing in her absence.
 5. At the previous hearing, clarification of the sum sought by the Applicant was requested. The Applicant submitted written notification the sum she was seeking £7,901.28 on 28 August 2020. This notification was sent to the Respondent.
 6. At a previous case management discussion on 6 March 2020 the Respondent's agent confirmed that the Respondent had entered into a lease for the property with the Applicant; the date of entry was 9 January 2018; the Respondent vacated the property in September 2019; and under the lease the Respondent was due to pay rental of £700 per calendar month. The Respondent had previously indicated that she opposed the order being granted and she had advised that she had been paying rent for the property, and it had been paid to the Applicant in cash.

Hearing

7. The Applicant advised that she was seeking an order for payment of £7,901.28.
8. The payment was made up of outstanding rent arrears £7663.53 (being total rent arrears due of £8163.53 less the deposit of £500); together with invoices for unblocking drains at the property of £135 and £102.75.
9. The Applicant advised that she had received one payment of £950 from the Respondent at the commencement of the tenancy, this was made up of £700 for rent and £250 for half of the deposit this payment was made in cash. She advised that thereafter all payments were made to her Bank of Scotland bank account. She had submitted bank account statements showing payments that had been made by the Respondent. She submitted that the bank statement showed payments direct from the Respondent and three payments of housing benefit for the property
10. She advised the last direct payment she had received from the Respondent was in August 2018 for £500. She had received three housing benefit payments made in July 2018, August 2018, and March 2019. She had received no further payments other than the ones shown on the rent account statement which she had submitted.

11. In the submitted bank account statements it was not clear which payments related to payments made by the Respondent; the Applicant advised that she had circled the payments received from the Respondent. She advised that this bank statement related to properties she rented out in Glasgow. She knew which payments were made by which tenants, as the other tenants she had paid regularly and paid £550 per month. She advised that she had not received rent payments in cash from the Respondent. She advised that she did not want to receive cash payments and discouraged that.
12. She advised that she had approached the Respondent on a number of occasions asking her to repay the rent arrears. The Respondent did not do so. The Applicant advised that she received a letter from the Respondent's case worker, as the Respondent had complained to the case worker that the Applicant had been harassing her. She advised the case worker that she was seeking rent payments. She had hoped that this would enable payment to the rent. This was unsuccessful.
13. She advised that she had contacted the housing benefit office and asked that benefit payments be made to her direct. There had been three payments of housing benefit. At one point it was not paid direct to her and it had been being paid direct to the Respondent. She referred to the housing benefit letter that had been submitted by the Respondent. She advised that she had not received all the housing benefit that had been paid for the property. She considered that benefits had been retained by the Respondent.
14. She confirmed that she was seeking the sum sued for rent arrears.
15. In relation to the invoices for unblocking the drains. She advised that she had been contacted by one of the owners in the block, he advised that the drains were blocked, due to food being put down the drains, the blockage was coming from her property. The Applicant went to the property and she advised that she saw food coming out of the drains. She advised that it was the drain from her property. She instructed a plumber to unblock the drains. She referred to the invoice which had been lodged in support of the matter. She advised that the plumber confirmed that the blockage had been caused by food being put down the drain. This blockage occurred in around November 2018. She spoke to the Respondent about the blockage, she advised that the Respondent just shrugged.
16. The following year, in around August 2019, the drain was blocked again. She had been contacted by the owner of the other flat again. She attended and saw the blockage. On this occasion the factors for the property dealt with the blockage, they charged her for dealing with the matter.

Findings in Fact

17. The Tribunal found the following facts to be established:

18. A tenancy agreement had been entered into between the Applicant and the Respondent.
19. The tenancy agreement date of entry was 9 January 2018.
20. The Respondent vacated the property in September 2019
21. In clause 9 of the tenancy agreement the rental payment was £700 per calendar month.
22. Housing Benefit had been paid for the property. It was paid to the Respondent during the periods 22.1.18 until 16.7.18 and 24.12.18 until 25.2.2019.
23. Housing benefit was paid direct to the Respondent during the period 16.7.18 until 24.12.2018.
24. The rental statement showed amounts due for each month, what had been paid and what was outstanding.
25. That rent due up to and including the month of August amounted to £8,163.53.
26. A deposit had been paid by the Respondent to the Applicant of £500.
27. The deposit monies had been deducted from the rent arrears owed.
28. The outstanding rent arrears appear to be £7,663.53.
29. Clause 13 of the tenancy agreement provides that the landlord may charge the tenant for a number of matters, including unplugging drains.
30. It appeared that drains for the property were blocked on two occasions during the tenancy on 19 November 2018: and again, on 3 June 2019.
31. Invoices were submitted for unblocking the drains for £135; and £102.75.
32. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement and the invoices for unblocking the drains had not been paid by the Respondent.

Reasons for Decision

33. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is a private residential tenancy, I am content that I have jurisdiction to deal with this case.

34. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was submitted a rental statement showing the arrears due and bank statements provided by the Applicant showing payments which had been made by the Respondent and from housing benefit.
35. There had also been submitted documents by the Respondent, 4 payment receipts from the Bank of Scotland which showed payment being made by the Respondent to rent, these payments had all been acknowledged by the Applicant has having been paid to rent, these payments were shown on the rent statement. There was also a letter form the Housing Benefits Section at Glasgow City Council confirming that payments of housing benefit had been made to the landlord and Applicant, and confirming the total amount which had been paid by them for the property.
36. The Respondent did not appear today. We did however consider the information she had submitted.
37. The Applicant explained that other than the first month's payment, all other money had been paid to the bank account of which she had lodged statements. She advised that there had been no other payments made. She spoke to her bank statements indicating how she knew which payments received related to the Respondent's payments and which ones did not. She advised that housing benefit paid was paid to this account and there were only three payments of housing benefit. She advised that she had spoken to the Respondent on a number of occasions however this did not make any difference, and rent payment was not forthcoming. She had raised proceedings to recover the property due to non-payment of rent. She appeared credible in her explanation.
38. The tenancy agreement provides that the landlord can seek recovery of payments where the property has been damaged due to the Respondent's actions, she spoke to the issues of the blocked drains; provided invoices in support of the repair works; and, she advised that the plumber had confirmed that the blockage had been caused by putting food down the drains. She appeared credible in her explanation.
39. Based on the evidence submitted and having regard to all papers submitted including the application, the tribunal consider that we make an order for the sum sued for.

Decision

40. We grant an order in favour of the Applicant for SEVEN THOUSAND NINE HUNDRED AND ONE POUNDS TWENTY-EIGHT PENCE (£7,901.38) STERLING against the Respondent.

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.

M Barbour

22 September 2020

Legal Member/Chair

Date