



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/19/3358

Re: Property at 77 Braehead Road, Kildrum, Cumbernauld, G67 2BH (“the Property”)

Parties:

Mr Stephen McLaughlin, 8 Burns Road, Kirkintilloch, East Dumbartonshire, G66 2NN (“the Applicant”)

Miss Louise Monaghan, 253 Braehead Road, Kildrum, Cumbernauld, G67 2BW (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

- 1. The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondent shall pay to the applicant the sum of one thousand one hundred and twenty three pounds and thirty pence (£1123.30) with interest at two percent per annum from 22 July 2020 until payment.**
- 2. This is a management discussion ‘CMD’ in connection with an application in terms of s71 of the Private Housing(Tenancies)(Scotland) Act 2016, ‘the Act’ and rule 111 of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ to recover rent arrears for the property.**
- 3. The CMD proceeded by conference call due to the Covid-19 pandemic. The applicant attended. The respondent did not attend and was not represented. The tribunal had sight of the copy letter sent to the respondent by the Tribunal on 17**

June 2020 and the track and trace which confirmed the letter had been signed for on 18 June 2020. The tribunal also noted that the original application was served by sheriff officer on 20 November 2019. An earlier CMD due to take place on 31 March 2020 was adjourned however the respondent also received her intimation at that time as she telephoned the tribunal on 10 March 2020 to make an inquiry. The tribunal was satisfied that the respondent had received appropriate notice in terms of rule 24. The tribunal proceeded with the CMD in terms of rule 29.

4. The tribunal had before it the following copy documents:

- (1) Application dated 18 October 2019 and received by the tribunal on 21 October 2019.
- (2) Rent statement
- (3) Private residential tenancy agreement 'PRT' dated 25 August 2018.
- (4) Land certificate.
- (5) Bank statements.
- (6) Sheriff officer's execution of service of application dated 20 November 2019.

Discussion

5. Mr McLaughlin was seeking an order for the outstanding rent of £1498.30 as set out in the rent schedule and application. This represented unpaid rent for April, May, June and July 2019 together with an apportionment of £123.30 for rent due from 25 July 2019 until 4 August 2019 when the tenant left the property. The tribunal noted that the PRT made reference to a tenancy deposit of £375. The applicant was unable to recall what had happened to the deposit and the tribunal adjourned for a short time for him to check the position. When the tribunal reconvened, the applicant advised that he had retained the deposit. He proposed to deduct the sum of £375 from the arrears leaving a balance of £1123.30. The application made reference to interest of 8 percent from the date the rent was due. The PRT made no reference to a contractual payment of interest.

6. Findings in fact

- (1) the applicant is the owner of the property.
- (2) The parties entered into a PRT on 25 August 2018 for let of the property.
- (3) The agreed rent was £375 per month.
- (4) Rent arrears began to accrue in April 2019.
- (5) As at the 4 August 2019 the arrears are £1123.30.

7. Reasons

This is an application to recover rent arrears arising out of a PRT. The tribunal had sufficient information to proceed in the absence of the respondent and the procedure had been fair. The tribunal granted an order for the sum of £1123.30 which is the rent arrears of £1498.30 less the deposit of £375 which the applicant has retained. The tribunal also granted interest at 2 percent from today's date until payment.

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.

22 July 2020

Lesley A Ward Legal Member

Date