



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/19/3938

Re: Property at 44 Mains Drive, Dundee, DD4 9BW (“the Property”)

Parties:

Mr David Parry, 57 Pitairlie Road, Newbigging, DD5 3RH (“the Applicant”)

Miss Giorgia Gowans, Mr Terry Collins, Ms Caron Cummings, G/L 6 St Mungo Terrace, Dundee, DD3 9NE; UNKNOWN, UNKNOWN; 30 Eskdale Avenue, Dundee, DD3 9BF (“the Respondents”)

Tribunal Members:

Rory Cowan (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of £1,726.03 against the second and third Respondents only.

- Background

By application dated 8 December 2019 (the Application), the Applicant sought a Payment Order against the Respondents in relation rent arrears for the first and second Respondents’ tenancy for the Property. In support of the Application the Applicant submitted the following:

- 1) Private Residential Tenancy Agreement dated 13 August 2018;
- 2) Bank statements; and
- 3) Rent statement.

- The Case Management Discussion (CMD)

The CMD called by way of conference call on 29 July 2020. The Applicant appeared himself. There was no appearance by any of the Respondents. The date of the CMD

had been intimated to the third Respondent by way of recorded delivery and intimation by way of advertisement on the second Respondent was certified by the Tribunal. In relation to the first Respondent it was not clear if recorded delivery intimation had been effective. The Applicant confirmed that he was content to proceed on the basis that the Application was withdrawn in so far as it related to the first Respondent and thereafter only proceed against the second and third Respondents. That request was granted and the Application thereafter proceeded only against the second and third Respondents.

The Applicant confirmed the terms of the lease and that it ended on 11 October 2019 and the first and second Respondents vacated the Property leaving arrears of rent in the sum of £1,726.03. The bank statements, rent schedule and tenancy agreement were produced to support that proposition.

- Findings in Fact and Law

- 1) The first and second Respondents entered into a tenancy with the Applicant in relation to the Property on 13 August 2018.
- 2) The rent payable was £650 per calendar month.
- 3) The first and second Respondents vacated the Property on 11 October 2019 leaving arrears of £1,726.03.
- 4) The third Respondent agreed to act as guarantor in relation to the first and second Respondents' obligations under the tenancy agreement dated 13 August 2018.
- 5) The payment of rent was one of the obligations so guaranteed.
- 6) The Applicant is therefore entitled to a Payment Order against the second and third Respondents in the sum of £1,726.03.

- Reasons for Decision

None of the Respondents appeared or were represented at the CMD. The Tribunal accepted the evidence presented by the Applicant and there was no contrary position advanced by or on behalf of the Respondents. The Tribunal was satisfied that this Application and the date of the CMD had been properly intimated on the second and third Respondents and that the Applicant was therefore entitled to a Payment Order in the sum sought against them.

- Decision

A Payment Order in the sum of £1,726.03 will be granted in favour of the Applicant against the second and third Respondents only.

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.

Rory Cowan

Legal Member/Chair

Date 29 July 2020