



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) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/0329

Re: Property at 263 Kingsbridge Drive, Rutherglen, G73 2BP (“the Property”)

Parties:

Mr Pervez Siddique, 180 Mallot's View, Newton Mearns, Glasgow, G77 6GN (“the Applicant”)

Mrs Janis White, 23 Neilvaig Drive, Rutherglen, Glasgow, G73 4HH (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondent for payment of the sum of FOUR THOUSAND FIVE HUNDRED POUNDS (£4,500) to the Applicant.

Background

This is an application under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 for payment by the Respondent to the Applicant of the sum of £5,400.

The application is dated 16th January 2020. A case management discussion had been set down for 17th April 2020 but, because of public health crisis, had to be postponed. A case management discussion was held on 14th July 2020 and it was adjourned to allow parties to make investigations and make further representations with regard to the sum due. At that case management

discussion, the Applicant conceded that he had applied the deposit to the sum due and that he was therefore seeking payment of £4,950.

A further case management discussion was held on 3rd August 2020 and was conducted by telephone.

Written Submissions of 30th and 31st July 2020

Both parties made written submissions.

The Respondent accepted that only one month's rental had been paid at the outset of the tenancy but did not accept that the keys had been returned in May 2019. The representations state that the keys were returned before the end of March 2019. The Respondents had lodged a copy of a tenancy agreement in respect of a new property which she had entered into with an entry date of 15th March 2019.

The Applicant's representations state that the keys were returned on 13th May 2019 and produced an email from Austin Lafferty, Solicitors as evidence of this.

The Case Management Discussion

The Applicant participated and the Respondent was represented by Ms Laura Simpson, Solicitor

Preliminary Matters

Ms Simpson said that her client had made enquiries and now agreed that only one month's rent had been paid at the outset of the tenancy. She said that her client accepted that £4,500 was due. The Applicant stated that he was seeking an order for payment of £4,950. The Applicant and Ms Simpson agreed that the matter at issue was £450 which represented the payment of rent for the month of April 2019.

Ms Simpson said that she would want to lead evidence from the Respondent and her son with regard to the timing of the return of the keys for the Property.

The Applicant said that he had lodged an email from his solicitor which should be sufficient. It was explained to him that, if he was insisting that £4,950 be due rather than £4,500, the matter would need to be determined at a Hearing at which evidence could be led and parties be given the opportunity to question witnesses.

The case management discussion was adjourned for an hour to allow the Applicant to consider matters and to speak to his solicitor.

When the case management discussion reconvened, the Applicant said that he would accept an order for payment for £4,500. He said that, if he were to bring evidence to a Hearing, his solicitor would charge him fees.

The Applicant assured the Tribunal that he had considered matters and that he wanted the matter disposed of today.

Findings in Fact

1. The Applicant and Respondent were parties to a short assured tenancy in respect of the Property.
2. The monthly rental was £450.
3. The tenancy came to an end on or around March 2019.
4. There are rent arrears amounting to £4,500.

Documents before the Tribunal

1. Application Form F.
2. Tenancy Agreement dated 1st April 2015.
3. Statements from Letsbwise letting agents dated 15th March and 14th April 2018.
4. Representations from Respondent's solicitor dated 10th July 2020.
5. Representations from Respondent's solicitor dated 13th July 2020.
6. Representations from Applicant dated 30th July 2020 together with supporting documentation.
7. Representations from Respondent dated 31st July 2020 together with supporting documentation.

Reasons

The parties agreed that the sum of at least £4,500 was due. The Respondent's position was that this was all that was due. The Applicant had stated that the sum due was £4,950 but agreed to accept £4,500.

The documentary evidence before the Tribunal supported an order for payment being made.

In view of the fact that the parties had come to a common position with regard to the sum due, a Hearing was not required.

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 McAllister

**Martin J. McAllister
Legal Member
3rd August 2020**