



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Chamber Ref: FTS/HPC/TE/20/2456

Re: Property at 41 Meldrum Court, Dunfermline, Fife, KY11 4XR (“the Property”)

Parties:

Mrs Beverley Simkins, 46 Fergusson Road, Dunfermline, Fife, KY11 8NA (“the Applicant”)

Mr Alan Ritchie, Mrs Lindsey Ritchie, 41 Meldrum Court, Dunfermline, Fife, KY11 4XR; c/o 20 Russell Court, Dunfermline, Fife, KY11 4XR (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant(s):

Sum of SIX THOUSAND, ONE HUNDRED AND SEVENTY-TWO POUNDS AND SIXTY PENCE (£6,172.60) STERLING

- Background
 1. An application dated 4 December 2021 was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondents in relation to rent arrears accrued under a private residential tenancy agreement. The Application had initially been erroneously lodged under Rules 105 and 107, and this was subsequently amended to a Rule 111 application.

- The Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 20 May 2021 by way of tele-conference. The Applicant was personally present. There was no appearance by or on behalf of either Respondent. Two prior CMDs had taken place on 23 February 2021 and 15 April 2021. The First-Named Respondent had not appeared nor been represented at any of the CMDs. At the CMD on 15 April 2021, the Second-Named Respondent had appeared personally and matters had been continued to enable her to obtain legal advice and submit written representations if she wished to dispute the application. No written representations were submitted by or on behalf of the Second-Named Respondent, and she did not appear at the CMD on 20 May 2021. Notification of the date and time of the CMD was issued to the Second-Named Respondent by email on 20 April 2021, and notification was issued to the First-Named Respondent by way of Recorded Delivery post on the same date. The Tribunal was accordingly satisfied that both of the Respondents were aware of the date and time of the CMD and that the CMD could proceed in their absence.
3. The Applicant moved for the order for payment to be granted in the sum of £6,172.60. The sum sought in the original application was £3,000. The Applicant sought to increase the sum sought. An updated rent statement had been lodged by the Applicant on 3 May 2021 showing the increased sum due, and this was intimated to parties on 5 May 2021. The parties had entered into a Private Residential Tenancy Agreement. The Respondents had failed to make payment of rent since August 2020. It had been discussed at the prior CMD on 15 April 2021 that the Second-Named Respondent had removed from the Property on or around the time that the arrears started to accrue, but she had not sought to remove her name from the tenancy agreement and the agreement continued to run in the joint names of both Respondents.

- Findings in Fact

4. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced 24 March 2020;
 - (ii) In terms of Clause 8 of the Agreement, the Respondents were obliged to pay a monthly rent of £750 to the Applicant;
 - (iii) The Respondents had failed to make payment of rent as fell lawfully due and had accrued arrears amounting to £6,172.60.

- Reasons for Decision

5. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondents were obliged to make payment of rent in the sum of £750 per month under Clause 8 of the Agreement and had failed to do so. The Respondents had accrued arrears amounting to £6,172.60 and which fell lawfully due to be repaid to the Applicant. Accordingly, the Applicant was entitled to the Order for Payment as sought.

- Decision

6. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondents for payment of the undernoted sum to the Applicant:

Sum of SIX THOUSAND, ONE HUNDRED AND SEVENTY-TWO POUNDS AND SIXTY PENCE (£6,172.60) STERLING

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.

F Watson

Legal Member/Chair

Date: 20 May 2021