



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/21/1245

Re: Property at 8 Cairncross Place, Coatbridge, ML5 2FA (“the Property”)

Parties:

Mr Alex Neil and Mrs Kristine Neil, Fell End Lower Lane, Longridge, PR3 3SL (“the Applicants”)

Mr Craig John Horner and Ms Emma Louise Thompson, 8 Cairncross Place, Coatbridge, ML5 2FA (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents are in breach of the tenancy agreement with the Applicants and have failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of FIVE THOUSAND EIGHT HUNDRED AND FIFTY POUNDS (£5850) STERLING. The order for payment will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents.

Background

1. This is an application dated 21 May 2021 made by the Applicants’ agent for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties and a rent statement showing arrears of £5850.
3. On 24 June 2021, the Tribunal accepted the application under Rule 9 of the Regulations.

4. On 23 August 2021 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 23 September 2021. The Respondents required to lodge written submissions by 13 September 2021. This paperwork was served on the Respondents by Iain Wylie, Sheriff Officer, Glasgow on 25 August 2021 and the Execution of Service was received by the Tribunal administration.
5. On 23 August 2021 the Applicants’ agent emailed the Tribunal administration to request the CMD be postponed for personal reasons. That request was granted by the Tribunal. A further CMD was assigned to proceed on 12 October 2021. The Tribunal advised both parties of the new date.

Case Management Discussion

6. The Tribunal proceeded with the CMD on 12 October 2021 by way of teleconference. The Applicants were represented by Mrs Franchitti-Murray from Property Angels Letting and Management Ltd. Ms Thompson appeared and explained that Mr Horner had been delayed at work, but confirmed she had authority to represent him too.
7. The CMD also considered an application for repossession under case reference FTS/ HPC/EV/21/1244 in terms of which the Applicants sought repossession of the Property from the Respondents.
8. The Tribunal had before it a Private Residential Tenancy Agreement dated 28 June 2019 between the parties which commenced on 28 June 2019, a rent statement showing arrears of £5850 and letters dated 14 August 2020, 11 September 2020 and an undated letter to the Respondents seeking repayment of the arrears.
9. Mrs Franchitti –Murray moved the Tribunal to grant an order for payment. The Tribunal noted that in terms of Clause 8 of the tenancy agreement the Respondent had agreed to pay a monthly rent of £1300 per month. She explained that she had a very amicable relationship with Ms Thompson with whom she was in regular contact by text and telephone calls. The current arrears had increased to £7550 from the date of the application when they were £5850. The Respondents paid what they could when they could. She explained that she and her clients were sympathetic to the Respondents’ predicament, but they wanted to bring this matter to a conclusion. She explained the Applicants would be willing to reach some sort of payment programme with the Respondents. She advised the Respondents had made a recent payment, but that payments were sporadic and did not always cover the monthly rent of £1300.
10. Ms Thompson accepted the level of the arrears was £7550. When they moved into the Property in 2019 they had sold their home and since then had been looking to buy somewhere else for the family to live. Unfortunately the pandemic then hit. In response to questioning from the Tribunal she explained neither Respondent was put on furlough during the pandemic, but

their income had reduced. They had not been entitled to benefits. Both were in employment. They had made a payment last month of £1100 and paid what they could when they could. The Respondents did not want to be in this position and hoped to be able to reach a repayment to clear the arrears with the Applicants' agents.

Findings in Fact

11. The Respondents agreed by way of Clause 8 of a Private Residential Tenancy Agreement commencing on 28 June 2019 in relation to the Property that they would pay a monthly rent of £1300 to the Applicants.
12. The Respondents have fallen into arrears of rent. Arrears were £5850 at the date of the application. Current arrears have increased to £7550. The Respondents are accordingly in breach of Clause 8 of the tenancy agreement.

Reasons for Decision

13. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by the Applicants' agent and Ms Thompson.
14. Thereafter the Tribunal noted the content of the rent statement lodged. The Applicants' agent produced evidence of non- payment of rent with reference to the tenancy agreement and the rent statements lodged. Ms Thompson did not dispute the Respondents were in arrears or the level of the arrears. The Respondents appeared to the Tribunal to be genuine when stating they wished to make an arrangement to clear these arrears. The Tribunal was satisfied on the basis of these documents, together with the submissions of both parties that an order for payment in favour of the Applicants be granted.

Decision

15. The Tribunal granted an order for payment of £ 5850. The decision of the Tribunal was unanimous.

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.