

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/21/2015

Re: Property at 2 Hillview Court, South Road, Inch, AB52 6ZE (“the Property”)

Parties:

Mr Neil Dalrymple, C/O Loanhead Bothy, Logie Coldstone, AB34 5NP (“the Applicant”)

Mr Daniel William Flynn, Mrs Nikki Mitchell, 31 Seafield House, Aberdeen, AB24 1TF; 9 Shapinsay Square, Aberdeen, AB15 6NN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Second Named Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order of payment from the Respondents amounting to FOUR THOUSAND THIRTY THREE POUNDS AND SEVENTY EIGHTY NINE PENCE (£4033.89)

Background

1. An application was received by the Housing and Property Chamber signed 17th August 2021. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the cost incurred to clean and repair the Property at the end of the tenancy.
2. On 9th December 2021 all parties were written to with the date for the Case Management Discussion (“CMD”) of 18th January 2022 at 2pm by

teleconferencing. The letter also requested all written representations be submitted by 30th December 2021.

3. On 13th December 2021, sheriff officers served the letter with notice of the hearing date and documentation upon both Respondents. The letter was left with Mr Flynn's mother Carol Flynn. Mrs Mitchell was served personally. This was evidenced by Certificate of Executions dated 13th December 2021.
4. A CMD was held on 18th January 2022 at 2pm by teleconferencing. The Applicant attended and represented himself. The First Named Respondent, Mr Daniel Flynn, attended and represented himself. The Second Named Respondent, Mrs Nikki Mitchell, was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Second Named Respondent did not make representations in advance of the hearing. Mr Flynn did not wish to accept that full debt as he had not caused any of the damage. He left the Property in February 2021. He wished only to pay half. Mr Dalrymple wished to amend the amount sought. The original amount was £4105.89 but he no longer wished to claim the garage costs. This reduced the amount by £600. However, he had to get the couch repaired which cost £528. The Tribunal required this to be evidenced. The CMD was continued to allow for Mr Flynn to seek legal advice and consider if he wished to submit a Time to Pay Direction. It was also continued to allow Mr Dalrymple to submit an invoice for the couch to amend the application.

The Case Management Discussion

5. A CMD was held on 4th March 2022 at 10am by teleconferencing. The Applicant attended and represented himself. The First Named Respondent, Mr Daniel Flynn, attended and represented himself. The Second Named Respondent, Mrs Nikki Mitchell was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Second Named Respondent did not make representations in advance of the hearing.
6. Mr Dalrymple told the Tribunal he was seeking for an order for the full amount sought. This was namely £4033.89 which was the original amount less the cost of the garage but adding the cost of the couch repair. The Tribunal considered that Mrs Mitchell had suitable notice of this amendment given it was in the last CMD note and a copy of the invoice was distributed after it was received on 21st January 2022. Regardless the amended amount is less than the original amount sought of £4105.89.
7. Mr Flynn told the Tribunal that he has taken advice on this matter. He accepts that he owes the outstanding amount due jointly and severally albeit that he did not cause the damage. He apologised to Mr Dalrymple for what he had been through to reach this point. Mr Flynn is now getting advice regarding his finances. Once he has received the Order he will pass this to his money advisers.

8. The Tribunal was satisfied that the outstanding sum of £4033.89 was due and that an order should be granted.

Facts and reasons for the decision

9. A Private Rented Tenancy Agreement was entered into by the Applicant and the Respondents.
10. The Property was vacated on 25th March 2021 by the Second Named Respondent, Mrs Nikki Mitchell. The First Named Respondent, Mr Daniel Flynn, left the Property in February 2021 but had remained on the lease.
11. The Respondents are jointly and severally liable for the outstanding debt.
12. The arrears sought total £4033.89 due to repairs needing to be undertaken at the end of the tenancy.

Decision

13. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £4033.89.

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.

G. Miller

Legal Member/Chair

4th March 2022
Date