

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/CV/21/2017

Re: Property at 30 Roselea Gardens, Ladybank, KY15 7NW (“the Property”)

Parties:

Mr Stewart Leckie, Mrs Blanche Leckie, 1 Kinloch, Kinloch Farm, Cupar, KY15 7UT (“the Applicant”)

Ms Emma Rearie, Mr John Brown, formerly residing at 30 Roselea Gardens, Ladybank, KY15 7NW and whose current whereabouts are unknown (“the Respondents”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondents)

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

Sum of NINE THOUSAND FOUR HUNDRED AND NINETY-TWO POUNDS AND FIFTY-EIGHT PENCE (£9,492.58) STERLING

- Background
- 1. An application dated 18 August 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 and damages costs accrued under a private residential tenancy agreement.

- The Case Management Discussion

2. A Case Management Discussion ("CMD") took place on 14 January 2022 by tele-conference. The Applicants were represented by Mr Rutherford of Rollos Law LLP. There was no appearance by or on behalf of the Respondents. The application had been intimated on the Respondents by way of website advertisement between 2 December 2021 and 14 January 2022 in terms of Rule 6A of the Rules, due to their current whereabouts being unknown. The Tribunal was accordingly satisfied that the the CMD could proceed in the Respondents' absence.
3. The Applicants' representative moved for the order for payment to be granted in the sum of £9,492.58. The parties had entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced 28 July 2019. The Respondents vacated the Property on 9 July 2021. At the termination of the tenancy, there were rent arrears due of £2,643.58. Further, following an end of tenancy inspection, it was noted that the property was not left in a satisfactory condition. There was damage to the property, redecoration works required, gardening works, clearance of rubbish and cleaning required. Invoices setting out the costs of the works were lodged with the application and came to a total of £7,429.35. It was submitted that the Respondents were in breach of their obligations of the tenancy agreement in terms of Clauses 8 (rent arrears), 17 (reasonable care), 21 (respect for others), 25 (contents and condition), 30 (garden) and 37.9 (cleaning).

- 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 28 July 2019;
 - (ii) In terms of Clause 8 of the Agreement, the Respondents were obliged to pay a monthly rent of £580 to the Applicant;
 - (iii) In terms of Clause 17 of the Agreement, the Respondents were obliged to take reasonable care of the let Property and to take all reasonable steps to ensure the Property and its' fixtures and fittings are kept clean during the tenancy;
 - (iv) In terms of Clause 21 of the Agreement, the Respondents were obliged not to leave rubbish either in unauthorised places or at inappropriate times;
 - (v) In terms of Clause 25 of the Agreement, the Respondents agreed to replace or repair (or pay the cost thereof) any of the contents which are destroyed, damaged, removed or lost during the tenancy, fair wear and tear excepted;
 - (vi) In terms of Clause 30 of the Agreement, the Respondents were obliged to keep the garden and surrounds in a neat and tidy condition and leave same in a like condition at the end of the tenancy, and if they failed to do so would be liable for the cost involved;
 - (vii) In terms of Clause 37.9, the Respondents were obliged to keep the Property and the contents thereof in a good and clean condition;
 - (viii) The Respondents had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £2,643.58.

(ix) The Respondents were in breach of Clauses 17, 21, 25, 30 and 37.9 and are liable for the cost of rectifying same, in the sum of £7,429.35.

- 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 £580 per month under Clause 8 of the Agreement and had failed to do so. They had accrued arrears amounting to £2,643.58 and which fell lawfully due to be repaid to the Applicant. The Tribunal was satisfied that the Respondents were liable for the damages and cleaning costs of £7,429.35, due to their breaches of Clauses 17, 21, 25, 30 and 37.9 of the Agreement. Accordingly, the Applicants were entitled to the Order for Payment in the sum of £9,492.58 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 Applicants:

Sum of NINE THOUSAND FOUR HUNDRED AND NINETY-TWO POUNDS
AND FIFTY-EIGHT PENCE (£9,492.58) 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.

Fiona Watson

14th January 2022

Legal Member/Chair

Date