



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/21/2612

Re: Property at 4 William Street, Ferryden, Montrose, Angus, DD10 9RP (“the Property”)

Parties:

Mrs Sarah Anne Jadhav, 1147 Synergy, Irvine CA, United States (“the Applicant”)

Mr Robbie Davie, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Linda Reid (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of £3629.80 be made against the Respondent and in favour of the Applicant together with interest at the rate of 3% per year from the date of the order being granted.

Background

- 1.This Application for a payment order in terms of Rule 111 of the Tribunal rules of procedure was submitted to the Tribunal on 19th October 2021 and accepted by the Tribunal on 12th November 2021.The application was submitted along with an application for an Eviction Order in respect of rent arrears with reference HPC/EV/21/2609, which application was later withdrawn.
- 2.A case management discussion was fixed for 13th January 2022 and was continued to 24th February 2022 at 2pm.

Case Management Discussions

3.The Applicant was represented at both case management discussions relating to this application by Miss Wooley of Bannatyne Kirkwood and France Solicitors. The Respondent did not attend at either of the case management discussions and was not represented.

4.The Respondent had received the Tribunal papers and application by way of these being served by Sheriff Officer in advance of the first case management discussion which took place. He had been advised of the new date of 24th February 2022 by way of recorded delivery post. Miss Wooley advised the Tribunal that on or about 3rd February 2022 the Respondent had vacated the property and his current address was unknown. The Tribunal took the view that it was appropriate to proceed in his absence as the application, supporting papers and the continued case management discussion date had been intimated to the Respondent before he vacated the property.

5.The Tribunal had sight of the Application, a paper apart, a tenancy agreement, a rent statement, a letter to the Respondent dated 30th July 2021, a communications log, two up-to-date statements of the tenant rent account and a document setting out end of tenancy cleaning costs. The Applicant's representative had lodged a request to increase the sum claimed to £3629.80, as further rent arrears had accrued. This request to change the sum being requested was intimated to the Tribunal and the Respondent by email more than 14 days before the case management discussion and was still for a sum less than that originally requested in the application. The Tribunal was satisfied that the terms of Rule 14A had been met and that the sum being claimed could be amended.

6. Miss Wooley requested that a payment order with interest at 3% per year be granted and explained that the parties had entered into a tenancy agreement at the property with effect from 24th January 2020.The Respondent she said had fallen into rent arrears in February 2020 and had advised in March 2020 that he had been signed off work due to illness and was expecting to receive housing benefit. Rent arrears continue to accrue and the Respondent had been given an opportunity to clear the arrears, but this had not occurred. She said that multiple attempts to get in touch with the Respondent had elicited no response. It was known that the Respondent was single with no dependents. An attempt to clear the rent arrears had been discussed in October 2020 but this had not been successful and the last contact with the Respondent had been in August 2021.The rent arrears stood at £3629.80 at the date of the case management discussion on 24th February 2022, a sum less than the sum first requested in the application for the payment order.

7.Miss Wooley advised that regular payments towards the rent by way of universal credit payments had been made in the sum of £365 per month and had been so made since November 2020, but these did not cover the whole rent of £450 per month and had now ceased since the Applicant had vacated the property in February 2022.There had been no communication by the Respondent since he had left the property and no attempt to discuss the rent arrears.

8.Miss Wooley indicated that there was a deposit of £623 held in a deposit protection scheme which the Applicant intended to recover and put towards the rent arrears and end of tenancy cleaning costs of £150.She explained that any order granted would be

enforced to the extent of sums due less and amount recovered towards the rent arrears from the deposit. Miss Wooley understood that the sum of £473 might be recoverable and put towards the rent arrears but this was yet to be achieved.

Findings in Fact

9.The Applicant and Respondent entered into a tenancy agreement at the property with effect from 24th January 2020.

10.The monthly rent payable in terms of the agreement was £450 and a deposit was paid by the Respondent in the sum of £623.

11.Rent arrears started to accrue in terms of the tenancy agreement in early 2020 and continued.

12.Monthly payments of £365 from universal credit were paid towards the rent with effect from November 2020 but these did not clear the rent arrears.

13.A number of attempts were made to contact the Respondent regarding the arrears and a discussion took place in October 2020 but the rent arrears continued to accrue.

14.The Respondent vacated the property on or about 3rd February 2022 leaving no forwarding address and making no contact regarding the rent arrears accrued.

15. The sum of £3629.80 is lawfully due by the Respondent to the Applicant in respect of rent arrears which accrued at the property in terms of the tenancy agreement.

Reasons for Decision

16.The Tribunal formed the view that it was reasonable to grant a payment order given the rent arrears history in this tenancy and the unsuccessful efforts made to try to address these with the Respondent. Payments from universal credit had slowed down the level of increase of arrears accruing but these did not cover the entire monthly rent or clear the existing arrears. The Applicant sought interest on the outstanding sums, and this was awarded at the rate of 3 per cent per year from the date of the decision to reflect the current use value of the money in line with current banking rates.

Decision

The Tribunal determined that a payment order in the sum of £3629.80 be made against the Respondent and in favour of the Applicant together with interest at the rate of 3% per year from the date of the order being granted.

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.

V Bremner

24.2.22

Legal Member/Chair

Date