



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/21/2662

Re: Property at 58 Woodmarket, Kelso, Roxburghshire, TD5 7AX (“the Property”)

Parties:

Miss Hannah Thomson, Quarry Bank, Hume, Kelso, TD5 7TR (“the Applicant”)

Ms Patricia Stuart, 58 Woodmarket, Kelso, Roxburghshire, TD5 7AX (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:

Background

The Applicant seeks a Payment Order for rent arrears said to be lawfully due to the Applicant as rent arrears under a tenancy. The Application is accompanied by a copy of the relevant tenancy agreement and rent statements. The Respondent had also submitted representations of her own together with various documents which had all been considered carefully by the Tribunal.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 9 February 2022. The Application called alongside a related Application in respect of an Eviction Order. The Applicant was represented by Ms Wooley of Bannatyne Kirkwood and France & Co. The Respondent was personally present.

At the outset, the Applicant sought to reduce the sum claimed to £2,299.90. The previous figures sought both in the Application and in the subsequent representations were inaccurate as they double-counted sums previously addressed in a separate Payment Order made by a differently constituted Tribunal in November 2020.

The Tribunal noted that the Respondent appeared to challenge the manner in which the Applicant had calculated the rent arrears claimed despite the figures having now been amended to avoid the double counting referred to. The Respondent's logic however would have required the Tribunal to unpick the previous decision made by the Tribunal to make a Payment Order in November 2020 which had comprehensively addressed the issues of rent arrears due at that time.

The Tribunal informed the Respondent that, as this determination had been made and had not been appealed, The Tribunal would not revisit those matters that had been determined at that Tribunal. That having been confirmed, the Respondent seemed to have no basis for challenging the sums of rent arrears claimed by the Applicants which were supported by up-to-date rent statements. The Respondent herself acknowledged that she had rent arrears and had not been in a position to pay the full contractual monthly rent for a considerable period of time. The Respondent could not identify any flaw in the calculations set out in the latest rent statement.

Having considered all the documentation produced and having heard from parties, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy of the Property which commenced on 1 June 2019. The landlords in the tenancy were narrated as the Applicant's parents who were acting on her behalf at the time. The Applicant owns the Property.*
- II. *The contractual monthly rent due under the tenancy is £350.00;*
- III. *The Respondent has fallen into rent arrears;*
- IV. *As at today's date the sum claimed by the Applicant as rent arrears of £2,299.80 is lawfully due by the Respondent to the Applicant but remains unpaid;*

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order in favour of the Applicant against the Respondent in the sum of £2,299.90.

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.

Andrew McLaughlin

09/02/2022

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Legal Member/Chair

Date