



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/21/2859

Re: Property at 18 Lawrence Street, Dundee, Broughty Ferry, DD5 1ET (“the Property”)

Parties:

Mrs Hazel Penny, Rear 1/1, 329 Brook Street, Dundee, Broughty Ferry (“the Applicant”)

Mr Kristopher William Stewart, 18 Lawrence Street, Dundee, Broughty Ferry, DD5 1ET (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of ONE THOUSAND THREE HUNDRED AND EIGHTY FIVE POUNDS (£1385) STERLING. The order for payment will be issued to the Applicant 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 Respondent.

Background

1. This is an application dated 16 November 2021 made by the Applicant’s representative 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 dated 18 February 2019, various emails and correspondence between parties dated 12 August - 9 November 2021 and a rent statement to 15 November 2021 showing arrears of £1385.

3. On 29 November 2021 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 20 December 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 25 January 2022. The Respondent required to lodge written submissions by 10 January 2022. This paperwork was served on the Respondent by Alan Bradford, Sheriff Officer, Dundee on 21 December 2021 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with the CMD on 25 January 2022 by way of teleconference. The Applicant was represented by Mr Allen Smith from Sutherland Management. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD for both applications in his absence.
6. The Tribunal had before it the Private Rented Tenancy Agreement between the parties dated 18 February 2019, various emails and correspondence between parties dated 12 August - 9 November 2021 and a rent statement to 15 November 2021 showing arrears of £1385.
7. Mr Smith moved the Tribunal to grant an Order for payment for £1385. He explained it had been difficult to get the Respondent to engage with them. He submitted the Respondent had incurred further arrears which now stood at £1785. They had last received a payment of £400 on 23 December 2021, but nothing had been paid since then. The Tribunal noted the terms of the correspondence and emails lodged, the rent statement and that in terms of Clause 8 the Respondent had agreed to pay £400 per month to the Applicant by way of rent.

Findings in Fact

8. The Applicant and the Respondent agreed by way of Clause 8 of a Private Residential Tenancy Agreement dated 18 February 2019 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £400.
9. The Respondent has fallen into arrears of rent. He has not made any payments towards rent since 23 December 2021 when he paid £400. The Applicant has made efforts to obtain payment of the rent and arrears from the Respondent. The Respondent has ignored the Applicant’s agents’ correspondence. The arrears have increased to £1785. The arrears were £1385 as at the date of the application on 16 November 2021.

Reasons for Decision

10. 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 Mr Smith.
11. The Tribunal noted the content of the rent statement which showed the Respondent had incurred arrears of £1385 to 16 November 2021. The Tribunal also considered Mr Smith's submissions that further arrears had accrued and that the correspondence lodged showed Sutherland Management had made concerted efforts to get the Respondent to engage and pay rent. The Applicant's representative had produced evidence of persistent non-payment of rent with reference to the tenancy agreement, correspondence with the Respondent and the rent statement lodged. The Respondent had not disputed the application. He had ignored all attempts to engage. The Tribunal was satisfied on the basis of these documents, together with Mr Smith's submissions that the order for payment in favour of the Applicant be granted.

Decision

12. The Tribunal granted an order for payment of £1385.

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.

S. E

Legal Member

25 January 2022

Date