



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) Act 2016

Chamber Ref: FTS/HPC/CV/21/2871

Re: Property at 65 Mariners View, Ardrossan, KA22 8BH (“the Property”)

Parties:

Mr Kenny Dunald, Otters View, Purclewan Mill, Dalrymple, KA6 6AN (“the Applicant”)

Gavin Binney, 13 Seymour Avenue, Kilwinning, KA13 7PQ (“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 **SIX THOUSAND POUNDS (£6000) STERLING** from the date of this decision until payment. 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 17 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 signed and dated 12 and 15 April 2019 and a rent statement to 16 November 2021 showing arrears of £6500.

3. On 10 January 2022, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 8 February 2022 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 22 March 2022. The Respondent required to lodge written submissions by 1 March 2022. This paperwork was served on the Respondent at his new address of 13 Seymour Avenue, Kilwinning, KA13 7PQ by Stuart Sinclair, Sheriff Officer, Glasgow on 8 February 2022 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with the CMD on 22 March 2022 by way of teleconference. The Applicant was represented by Mr Scott from Rentolease Property Management Limited. Mr Donald the Applicant was also in attendance. 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 in his absence.
6. The Tribunal had before it the Private Rented Tenancy Agreement between the parties signed on 12 and 15 April 2019 and a rent statement to 16 November 2021.
7. Mr Scott moved the Tribunal to grant an Order for payment. He explained the tenancy had terminated on 16 December 2021 and that the arrears as at the date of termination were as stated on the rent statement lodged of £6500. The Applicant had recovered the full amount of the tenancy deposit of £500 after the termination. He accordingly sought a payment Order for payment of £6000. The Tribunal noted that in terms of Clause 8 of the tenancy agreement the monthly rent was £500 and that in terms of Clause 11 a deposit of £500 had been paid.

Findings in Fact

8. The Applicant and the Respondent agreed by way of Clause 8 of a Private Residential Tenancy Agreement dated 12 and 15 April 2019 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £500. In terms of Clause 11 of the Tenancy Agreement the Respondent paid a deposit of £500.
9. The tenancy terminated on 16 December 2021. The Respondent had fallen into arrears of rent. The arrears at termination were £6500.
10. The Applicant recovered the deposit of £500 after the tenancy terminated.

Reasons for Decision

11. 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 Scott.

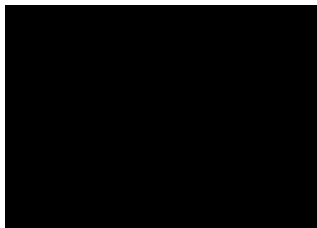
12. The Tribunal noted the terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to November 2021 as being £6500. Mr Scott had produced evidence of persistent non- payment of rent. He clearly submitted that after the tenancy had terminated on 16 December 2021 the tenancy deposit of £500 had been recovered in full and applied to the arrears leaving a sum outstanding of £6000. The Tribunal was satisfied on the basis of the documents, together with Mr Scott's submissions that the order for payment in favour of the Applicant be granted.

Decision

13. The Tribunal granted an order for payment of £6000.

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.



Legal Member

22 March 2022

Date