



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 Private Housing (Tenancies) (Scotland) Act 2016 .

Chamber Ref: FTS/HPC/CV/21/3127

Re: Property at 3 FLAT 11, HAWKHILL CLOSE, EDINBURGH, EH7 6FD (“the Property”)

Parties:

Mr MICHAL IWINSKI, 4 Baberton Loan, Juniper Green, EH14 5DF (“the Applicant”)

Mr PAUL MCNAUGHTON, MR EDWIN RAS, 24/6 Burgess Street, Edinburgh, EH6 6RD (“the Respondents”)

Tribunal Members:

Karen Kirk (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondents for the sum of £12,440.

Introduction

This CMD concerned an Application for Civil Proceedings in relation to a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference due to the covid-19 pandemic.

1. Attendance and Representation

The Applicant was represented by Kirsty Morrison, TC Young Solicitors, 7 West George Street, Glasgow, G2 1Ba.

The Respondents were not present. They was served by sheriff Officer on 26th January 2022. The Respondents had not lodged written representations. There was no recent contact between the Applicant and Respondents or the Applicant's representative and the Respondents.

2. Preliminary Matters

The Respondents were not present. Service had been affected on 26th January 2022.

There were no other preliminary issues raised.

3. Summary of Hearing

The Applicant's representative set out that the Applicant sought a payment order in terms of the Private Residential Tenancy between the parties for the amount of £12,440. She referred to the rent statement lodged detailing the rent account and sums due. The Applicant's representative said that the Respondents no longer resided in the property. She did not have the leaving date but the rent statement included a return of the deposit on 1st October 2021. The Applicant's representative said that her firm had sent a letter seeking payment prior to the Application and the Applicant had made separate contact to the Respondents without payment.

The Applicant's representative set out that he sought an Order for Payment for the sum of £12,440 in terms of Section 71 Private Housing (Tenancies) (Scotland) Act 2016 .

4. Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the CMD based on the information before the Tribunal. The Respondents had been served by Sheriff Officers service of the Application and notification of the CMD date on 26th January 2022. It was in the interests of the parties having regard to the Overriding objective to proceed.**
- 2. The Applicant sought an Order for Payment.**
- 3. The Tribunal was satisfied on the evidence that the Applicant was the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a Private Residential Tenancy in place between parties dated 1st October 2020. Copy signatures of all Respondents entering into the PRT were lodged.**
- 5. The rental payment in terms of this agreement was £1200 per calendar month.**
- 6. Rent due by the Respondents to the Applicant in terms of the rent statement lodged as at the application was £12,440.**

7. The Tribunal was satisfied on balance that it was appropriate to grant a Payment Order for £12,440.
8. Accordingly, in terms of Section 71 of the 2016 Act the Tribunal granted a Payment Order against the Respondents in absence.

5. **Reasons for Decision in Absence.**

The Tribunal heard from the Applicant's representative and there was appropriate productions relating to the property and rent arrears lodged. The Respondents had been served. It was appropriate to grant the order as sought.

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.

K. K

Legal Member: Karen Kirk

Date: 4th March 2022