



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/22/1082

Re: Property at 11 Cant Crescent, St Andrews, Fife, KY16 8NF (“the Property”)

Parties:

Mr Derek Gomez, 14 Quadrant Road, Glasgow, G43 2QJ (“the Applicant”)

Ms Aisha Al Sulaiti, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £36000.00.

Background

1. By application dated 12 April 2022 the Applicant’s solicitors, Rollos, Solicitors, Cupar, fife, applied to the Tribunal for an order for payment in respect of alleged unpaid rent in respect of the Respondent’s tenancy of the property. The Applicant’s solicitors submitted a copy of the tenancy agreement and a rent statement in support of the application.
2. Following further correspondence between the Applicant’s solicitors and the Tribunal administration by Notice of Acceptance dated 20 May 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Sheriff Officers attempted to serve notice of the CMD on the Respondent on 17 June 2022 but were unsuccessful as the Respondent had vacated the property. Subsequent attempts to trace the Respondent failed and intimation of the CMD

proceeded by way of Service by advertisement on the Housing and Property Chamber website, conform to Certificate of Advertisement dated 29 July 2022.

The Case Management Discussion

4. A CMD was held by teleconference on 29 July 2022. The Applicant did not attend but was represented by Miss Alice Hegarty of Rollos, Solicitors, Cupar, Fife. The Respondent did not attend nor was she represented. The Tribunal being satisfied that service of the application having proceeded by way of advertisement on the Housing and Property Chamber website was in order determined to proceed in the absence of the Respondent.
5. Miss Hegarty explained that the Applicant had resumed occupation of the property around 20 June 2022 following the Respondent removing herself from the property. She advised that the Applicant had obtained an order for the eviction of the Respondent from the property but that the Respondent had removed from the property before Sheriff Officers could carry out the eviction on about 20 June 2022.
6. Miss Hegarty went on to say that the Applicant had applied to Safe Deposit Scotland for the whole of the Respondent's deposit to be returned to the Applicant to cover additional rent and also damage to the property. Miss Hegarty was unaware of the exact amount being claimed by the Applicant in this regard but was aware that the sum said to be due was greater than the total amount of the deposit. Safe Deposit Scotland had still to finalise the return of the deposit.
7. Miss Hegarty confirmed that the Respondent had made no payment of rent since the application had been submitted and there had been no communication from her. There had been no explanation or reason given by the Respondent for non-payment of the rent. Miss Hegarty submitted that the application should be granted.

Findings in Fact

8. The parties entered into a Private Residential Tenancy agreement that commenced on 23 March 2020.
9. The initial rent from 1 April 2020 was £9900 per quarter. This was reduced by agreement between the parties to £3000.00 per month with effect from 1 June 2021.
10. The Respondent failed to pay any rent from 1 June 2021 until she vacated the property at some time in June 2022.
11. The rent due by the Respondent for the period from 1 June 2021 to 31 May 2022 amounted to £36000.00.

Reasons for Decision

12. The Tribunal was satisfied from the written representations and documents and the oral submissions at the CMD that the parties entered into a Private Residential tenancy that commenced on 23 March 2020. The Tribunal was also satisfied that the rent was £9900.00 per quarter but that this was reduced by agreement to £3000.00 per month in June 2021. The Tribunal was satisfied from the documents produced and Miss Hegarty's oral submissions that the Respondent had failed to pay any rent from 1 June 2021 until she vacated the property at some point in June 2022. The Tribunal was therefore satisfied that as at 31 May 2022 the Respondent owed rent amounting to £36000.00.
13. The Tribunal was unable to determine if any of the deposit claimed by the Applicant related to the sum claimed by him in this application but given that further rent was due by the Respondent for the period from 1 June until the end of the tenancy and it was alleged by the Applicant that the Respondent had caused damage to the property to the extent that the total amount claimed was in excess of the deposit held by Safe Deposit Scotland the Tribunal was satisfied that it should not take into account the deposit in arriving at a determination of a sum due by the Respondent to the Applicant.
14. Having considered the written representations and documents together with the oral submissions made by Miss Hegarty the Tribunal was satisfied that it had sufficient information before it to reach a decision without the need for a hearing.

Decision

15. The Tribunal finds the Applicant entitled to an order for payment by the Respondent in the sum of £36000.00.

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.

Graham Harding

Graham Harding
Legal Member/Chair

29 July 2022
Date