



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017

Chamber Ref: FTS/HPC/CV/22/1239

Re: Property at Flat 1/1 3 Pembroke Street, Glasgow, G3 8LS (“the Property”)

Parties:

Sanctuary Homes (Scotland) Limited, Sanctuary House, 7 Freeland Drive, Priesthill, Glasgow, G53 5PG (“the Applicant”)

Miss Kimberley Muldoon, formerly residing at Flat 1/1 3 Pembroke Street, Glasgow, G3 8LS and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Sandra Brydon (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant(s):

Sum of NINE THOUSAND FOUR HUNDRED AND TWELVE POUNDS AND TWELVE PENCE (£9, 412.12) STERLING

- Background
- 1. An application was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a private residential tenancy agreement.

- The Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 29 July 2022 by tele-conference. The Applicant was represented by Mr MacDonald of Gilson Gray. There was no appearance by or on behalf of the Respondent. The application had been intimated on the Respondent by Sheriff Officer on 16 June 2022. The Tribunal was accordingly satisfied that the Respondent had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondent’s absence.
3. The sum sought in the application was £9,412.12. The Applicant’s representative advised that since raising the application the arrears had increased to £10,543.70. The Respondent had vacated the Property and the tenancy had ended on 6 July 2022. The Applicant’s representative moved for the order for payment to be granted in the increased sum of £10, 543.70. The parties had entered into a Private Residential Tenancy Agreement. The arrears had commenced in January 2020 and there had been a continuous arrear to date. The Respondent lived in the Property alone and had no dependants. She was believed to have been in full-time employment at the start of the tenancy, but her current employment status was unknown. Various attempts had been made to contact the Respondent but she had failed to engage with the Applicant. No payment arrangement had been offered or entered into.

- Findings in Fact

4. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced 26 February 2018;
 - (ii) In terms of Clause 1.10 of the Agreement, and subsequent rent increases applied under Clause 2.5, the Respondent was obliged to pay a monthly rent of £565.79 to the Applicant;
 - (iii) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £10,543.70.

- Reasons for Decision

5. The Tribunal was not satisfied that the Applicant was entitled to the increased sum as sought. Whilst the Applicant’s representative had emailed an updated rent statement to the Tribunal on 15 July 2022 and indicated that they wished to seek the increased sum, they had not intimated this on the Respondent as is required under Rule 14A of the Rules. There was no evidence that the Respondent had received any intimation that the increased sum was being sought. Accordingly, on that basis Rule 14A had not been complied with. The Tribunal was satisfied that an Order for Payment should be granted in the sum sought in the application, intimation of which had been made on the Respondent by way of Sheriff Officer on 16 June 2022. The Respondent was obliged to make payment of rent in the sum of £565.79 per month under Clause 1.10 of the Agreement and had failed to do so. She had accrued arrears and which fell lawfully due to be repaid to the Applicant.

- Decision
6. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of NINE THOUSAND FOUR HUNDRED AND TWELVE POUNDS AND TWELVE PENCE (£9, 412.12) STERLING

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.

Fiona Watson

Legal Member/Chair

Date: 29 July 2022