



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/22/2554

Re: Property at 56 Forest Road, Aberdeen, AB15 4BP (“the Property”)

Parties:

Mr Kevin Coll, Bridge House, 56-58 Bridge Street, Aberdeen, AB11 6JN (“the Applicant”)

Mr Andy Mackay, Wiji Mackay, 12 Rubislaw Drive, Aberdeen, AB15 4BX; 12 Rubislaw Drive, Aberdeen, AB15 4BX (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Decision

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 Respondents to the applicant in the sum of £9033.84.

Background

1. By application dated 27 July 2022 the Applicant’s representatives, Ledingham Chalmers LLP, Solicitors, Aberdeen, applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondents’ tenancy of the property. The Applicant’s representatives submitted a copy of the tenancy agreement together with a rent statement, Notice to Leave and copy correspondence from the Applicant’s letting agent to the Respondents in support of the application.

2. Following further correspondence between the Applicant's representatives and the Tribunal administration by Notice of Acceptance dated 19 October 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion ("CMD") was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 13 December 2022.
4. By email dated 27 January 2023 the Applicant's representatives submitted an application to increase the sum claimed by £5133.84.
5. A CMD was held by teleconference on 8 February 2023. The Applicant did not attend but was represented by Miss Rebecca Walker from the Applicant's representatives. The Respondents did not attend nor were they represented. The CMD was adjourned in order that the Application to amend the sum claimed could be intimated upon the Respondents at their current address.
6. By email dated 13 March 2023 the Applicant's representatives submitted a further application to amend the sum claimed to £9033.84 together with confirmation of intimation of the amendment to the Respondents and a further rent statement.

The Case Management Discussion

7. A further CMD was held by teleconference on 28 April 2023. The Applicant did not attend but was again represented by Miss Walker. Mr Mackay attended on behalf of himself and his wife.
8. After explaining to the parties the purpose of the CMD and the options open to the Tribunal the legal member sought to ascertain from Mr Mackay if he had received intimation of the application to increase the sum claimed to £9033.84. Mr Mackay confirmed that he had. The Tribunal then asked if there was any dispute with regards to the amount and Mr Mackay confirmed that there was not and that he accepted the sum was due. He went on to explain that he had been made redundant and had used all his savings to pay the rent initially but had then missed some payments before applying for Universal Credit. He went on to say that although he accepted the sum was due, he just was not in a position to pay at present.
9. For the Applicant Miss Walker asked the Tribunal to amend the sum claimed to £9033.84 being the balance due by the Respondents after their deposit had been returned to the Applicant and to grant an order for payment in that amount. Miss Walker said that although the Respondents were claiming to be unable to make payment she understood Mrs Mackay owned a Porsche car

and that Mr Mackay owned a property in north Scotland and the Respondents were living in an expensive residential area in Aberdeen.

10. Mr Mackay said that the property they had moved to accepted tenants on Universal Credit and that he had been trying to sell his own property for over a year but that it required work that he could not afford to undertake.

Findings in Fact

11. The Respondents are due the Applicant the sum of £9033.84.

Reasons for Decision

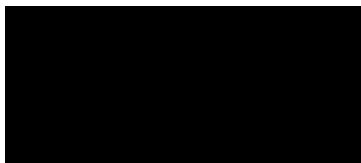
12. The Tribunal was satisfied from the written representations and documents submitted by the Applicant's representatives together with the oral submissions from both Miss Walker and Mr Mackay that the Applicant was entitled to an order for payment by the Respondent in the sum of £9033.84. That amount not being disputed as being due by Mr Mackay.

Decision

13. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £9033.84.

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
Legal Member/Chair**

**28 April 2023
Date**