



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

Chamber Ref: FTS/HPC/CV/22/3306

Re: Property at Ground Floor (L), 18 Campbell Street, Greenock, PA16 8AP (“the Property”)

Parties:

Mr Stuart Robert Dowden, 38 Alverstone Rd, East Cowes, Isle of Wight, PO32 6NZ (“the Applicant”)

Ms Jillian Doherty, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for the sum of £6,675 be granted in favour of the Applicant.

Background

- (a) This was the second case management discussion to consider the application made by the Applicant dated 8th September 2022 for an order for payment in respect of rent arrears accrued by the Respondent and owing to the Landlord. The CMD took place by teleconference.
- (b) The Applicant is the owner of the Property and he is represented by his mother Mrs Marie A Dowden who is named as the landlord in the Tenancy with the Respondent who is the tenant.
- (c) The Applicant has lodged and the Tribunal had sight of and considered the following documents:-
 - a. Application for payment of £4,942.50 in respect of rent arrears.
 - b. Copy Tenancy Agreement between Mrs Dowden and the Respondent which commenced on 1st June 2020
 - c. Rent statement dated from 1st June 2020 to September 2022.

- d. Statement re conduct of the tenancy
- e. Letter of authorisations from the Applicant.
- (d) The Application was originally rejected by the Tribunal due to a lack of response to a request for further information including a request for an address for the Respondent.
- (e) The Applicant's representative then provided the further information and asked for a review. The Application was then accepted after a Review.
- (f) Sheriff Officers attempted to serve the application at the address given for the Respondent namely the Respondent's mother's address but advised that she was not living there and so the initial CMD arranged for 9th June 2023 was cancelled and a new date of 5th July at 10 am was arranged and the application was served by advertisement.
- (g) At the first CMD on 5th July the Applicant's representative Mrs Dowden attended and confirmed that she managed the Property for her son and that it was a previous family house. She explained that the tenancy was entered into with the Respondent on 1st June 2020 and initially the rent was paid on time and in full but was paid mostly by the Respondent's partner at the time. She advised that during 2021 the rent was not always paid and by December she tried contacting the tenant by phone but she didn't answer. Mrs Dowden advised that she then gave the tenant verbal and written notice and told her due to the arrears the tenant had to leave. She advised that she believed the rent stopped getting paid when the tenant's partner left. She also advised that she had instructed sheriff officers to trace the Respondent but they did not manage to trace her.
- (h) Mrs Dowden confirmed as per the rent statement lodged that the rent was £450 per month. There was a shortfall of one month of £300 in 2020, otherwise all other payments were made in full. In 2021 where rent due for the year was £5,400, there were several months of no payment resulting in the sum of £2,425 being paid, leaving a balance due of £2,975.
- (i) In 2022 Mrs Dowden advised that she had not received any payment of rent from the Respondent, however she had only claimed £1,624 due for that year with no explanation of how this was made up. Mrs Dowden agreed that she had not calculated this correctly and asked if she could increase it. The legal member advised that an increase could only be considered if it was first intimated on the respondent and Mrs Dowden agreed after considering the matter, that she would wish an adjournment to seek an amendment to increase the sum from the amount in her initial application which was £4,942.50.
- (j) Prior to the calling of the case today 7th September the Applicant's representative had lodged a revised rent statement showing a sum due now of £9075 and requesting an increase of that in the amount sought.
- (k) As the whereabouts of the Respondent is still unknown the Tribunal served notice of this application for an increase and date and time of the next CMD by advertisement on the Respondent.

The Discussion

- (l) The CMD commenced at 10am by teleconference with the Applicant's representative Mrs Marie Dowden in attendance on the teleconference call. There was no attendance by the Respondent and no written submissions had

been received. The Legal Member had seen a certificate of advertisement and was satisfied service by advertisement had been completed and so was satisfied the CMD could continue in the absence of the Respondent.

- (m) The Legal Member explained the purpose and order of the proceedings today and advised that a Tribunal may make an order after a CMD if it was satisfied it was fair and appropriate to do so.
- (n) The legal member then invited Mrs Dowden to clarify her amended rent statement. Mrs Dowden confirmed that she was in the process of moving into the Property and did not have all the paperwork to hand. When asked why she had apparently increased sums due for 2020 and 2021, she agreed this was an error as the sums paid had previously been verified with bank statements she had previously lodged so Mrs Dowden agreed the sums due for those years were £3,275 in total.
- (o) She confirmed that for 2022 there was no rent paid and the tenant left around the end of August 2022, which was confirmed to her by neighbours at the Property. She was seeking the sum of £3,400 for 2022 and advised that she had made a claim for the return of the deposit but had not yet received it.

Finding of Facts

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 1st June 2020.
2. The Rent due in terms of the lease was initially £450 per calendar month payable in advance
3. The tenant left the property on or around the end of August 2022
4. The rent outstanding at the end of August 2022 was £6,675.
5. The deposit is being claimed by the Applicant but has not yet been awarded and is not available to reduce the arrears.

• Reasons for Decision

6. The parties have entered into a lease where the Respondent has leased the property from the Applicant, although the Applicant's mother is named on the lease as the landlord she was acting as agent for her son who is the owner. The Respondent agreed to pay £450 per month in rent.
7. The Respondent has failed to pay the full rent due. The Respondent and her partner paid some rent in 2020 and 2021, with a shortfall of £3275 but have made no payments in 2022. The Applicant is claiming £3400 for rent due for 2022 until the end of August when Mrs Dowden the Applicant's representative believes the Respondent left. The Respondent has not handed back the keys but is not living at the Property and attempts to trace her have failed resulting in this application being served by advertisement.
8. The Respondent has had notice of this application, by service by advertisement and has not made any written representations or attended this CMD. The Applicant provided a revised rent statement and requested an increase in the sum due to £9,075, this was intimated on the Respondent by advertisement. Following discussion at the CMD the Applicant's representative accepts that £9,075 was not a correct calculation and

confirmed from the detail lodged in the rent statement and the bank statements showing the sums paid by the Respondent since the start of the tenancy that the sum now due is £6,675.

9. The Tribunal accepts the written evidence and verbal statements made by the Applicants representative who the Tribunal found credible in her evidence that the rent outstanding is £6,675. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

- **Decision**

An order for payment of the sum of £6,675.

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.

Jan Todd

Legal Member/Chair

Date 07/09/23