



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/3370

Re: Property at 8 KINCLAVEN GARDENS, GLENROTHES, KY7 4UR (“the Property”)

Parties:

SOUTAR PROPERTY LIMITED, WOODLANDS HOUSE, MARKINCH, KY7 6HE (“the Applicant”)

Ms CATHERINE CHARNICK, 541 Wellesley Road, Methil, Leven, KY8 3PD (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a payment order in the sum of Six thousand four hundred and four pounds and thirty nine pence (£6,404.39) Sterling

Background

- 1 By application to the Tribunal the Applicant sought an order for payment of against the Respondent in respect of outstanding rent arrears and damages. In support of the application the Applicants provided the following documentation:-
- (i) Private Residential Tenancy Agreement between the parties dated 27 August 2021;
 - (ii) Notice to Leave;
 - (iii) Rent Statement;
 - (iv) Copy correspondence from the Applicant to the Respondent;
 - (v) Excerpt WhatsApp messages between the Applicant and the Respondent; and
 - (vi) Copy invoices.

- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 7 March 2023. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.
- 3 On 16 February 2023 the Respondent submitted a time to pay application offering payments of £100 per month. The Applicant subsequently responded to confirm acceptance of the offer.

Case Management Discussion

- 4 The Case Management Discussion took place on 7 March 2023 by teleconference. The Applicant was represented by Fiona Soutar. The Respondent was not in attendance. The Tribunal confirmed that the Applicant was content to accept the time to pay offer.

Findings in Fact and Law

- 5 The parties entered into a Private Residential Tenancy agreement dated 27 August 2021.
- 6 In terms of Clause 7 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £595 per month.
- 7 The tenancy between the parties terminated on 3 August 2022.
- 8 As at the date of termination arrears in the sum of £4,156.93 were outstanding.
- 9 The Applicant incurred costs amounting to £2,246.46 in addressing damage to the property at the termination of the tenancy. The said damage went beyond fair wear and tear.
- 10 The Respondent is liable for the costs incurred by the Applicant under Clause 24 of the said Tenancy Agreement.
- 11 The Respondent is therefore liable to pay the sum of £6,404.39 to the Applicant.

Reasons for Decision

- 12 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. There were no facts in dispute that would require a hearing to be fixed.

- 13 Based on its findings in fact the Tribunal accepted that the Respondent was liable to pay the sum of £6,404.39 to the Applicant in accordance with her contractual obligations under the tenancy agreement. The Respondent had accepted liability for the sum due in the time to pay application she had submitted offering payments of £100 per month. The Tribunal therefore determined to make a payment order with a time to pay direction, which was not opposed by the Applicant.

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.

Ruth O'Hare

7 March 2023

Legal Member

Date