



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/23/0025

Re: Property at 33 Wedderburn Crescent, Dunfermline, Fife, KY11 4SF (“the Property”)

Parties:

Mr Andrew Miller, Mrs Carole Miller, 14 Ptak Way, Bridge of Earn, Perth, PH2 9FT; 65 David Douglas Avenue, Scone, Perth, PH2 6QQ (“the Applicant”)

Mr Robert Sewielski, 33 Wedderburn Crescent, Dunfermline, Fife, KY11 4SF (“the Respondent”)

Tribunal Member:

Melanie Barbour (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order in favour of the Applicant against the Respondent for payment of the sum of FOURTEEN THOUSAND FIVE HUNDRED AND FORTY EIGHT POUNDS SIXTY SEVEN PENCE (£14,548.67) STERLING

Background

1. An application had been received under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking recovery of possession under a private residential tenancy by the Applicant against the Respondent for the Property.
2. The application contained: -

1. the tenancy agreement,
2. rent statement

3. The applicant, Carole Miller appeared. The respondent also appeared. This was a continued case management discussion on 24 August 2023. This case had been continued from an earlier case management discussion on 22 May 2023. Reference is made to the terms of that case management discussion note. Both CMDs took place by telephone. The applicant had submitted an up to date statement of rent in time for the second CMD.

Discussion

4. The applicant advised that she was seeking an order for payment of the sum of £14,548.67 for rent arrear. She advised this sum was continuing to rise.

5. The applicant advised that she had agreed to continue the case from the last calling to allow the respondent to make payments to rent and arrears. She advised that since that date she had received universal credit but this was all. There was a shortfall in the rent payments. The benefit did not cover the full rent due.

6. She advised that the respondent had told her that he was starting a job on 3 July, however it appears that this did not happen. She had not received any further payments to rent or arrears other than benefits. He had not contacted her to update her on what had happened with his job.

7. The respondent advised that he accepted the rent arrears were due. The respondent advised that he wishes to pay all of the rent arrears back.

Findings in Fact

8. The Tribunal found the following facts established: -

9. There existed a private residential tenancy between the Applicant and the Respondent. It had commenced on 18 November 2018.

10. The tenant was Robert Sewielski.

11. The landlord was Carole Miller and Andrew Miller.

12. The property was 33 Wedderburn Crescent, Dunfermline.

13. The tenancy stated that rent was £525 a calendar month payable in advance.

14. At 24 August 2023 arrears were £14,548.67. There was a rent statement submitted showing these arrears. The respondent accepted that these arrears were due by him.

Reasons for Decision

15. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is a private residential tenancy the tribunal is content that it has jurisdiction to deal with this case.

16. The tenancy agreement created obligations between the parties, which included paying rent. The respondent had failed to make full payment of the rent. There were submitted rent statements showing the arrears due. The respondent was in breach of the tenancy condition regarding payment of rent. The respondent admitted the debt at the case management discussion.

17. On the basis of the papers submitted and having regard to the oral submission of the agent for the applicant, we consider that we should make an order for the amended sum sued of £14,548.67.

Decision

18. The Tribunal grants an order in favour of the Applicant against the Respondent for payment of £14,548.67.

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.

M. Barbour

1 September 2023

Legal Member/Chair

Date