



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/21/1096

Re: Property at Flat 7B, Granary Street, Huntly, Aberdeenshire, AB54 8AP (“the Property”)

Parties:

Mr Gerald Dunn, 6 Beechcroft Terrace, Inch, Aberdeenshire (“the Applicant”)

Mr Ilim Tanyeli, 9 Balcairn Avenue, Oldmeldrum, Inverurie, AB51 0NY (“the Respondent”)

Tribunal Members:

Steven Quither (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

The Respondent is to pay to the Applicant the sum of FOUR THOUSAND ONE HUNDRED POUNDS (£4100) STERLING ONLY

1. BACKGROUND

This is an application for payment of rent arrears arising out of an “Assured Shorthold Tenancy Agreement” between the parties commencing 26 April 2019, in respect of which the Applicant states rent arrears have accrued in the sum of £4100, up to 26 April 2021. Following upon sundry procedure, a Case Management Discussion (“CMD”) was fixed for 22 July 2021.

2. CASE MANAGEMENT DISCUSSION

Both parties attended the CMD which took place by tele-conference. The Applicant clarified that the sum he was seeking was £4100, as opposed to £3600, since the deposit of £500 had been used to repair damage to the Property. I treated this as an application to amend the application and, in the absence of any objection being stated by the Respondent, allowed same.

The Applicant then stated his position as being that the Respondent had only made one payment of rent timeously, at the start of the let, since when any further payments had only been made after efforts to "chase up" same. In addition, there had been damage caused to the Property, which he had used the deposit to repair. He was aware of difficulties occasioned to the Respondent by the coronavirus pandemic and was content to afford the Respondent some leeway, but the amount of arrears which had accrued had caused him some financial difficulties of his own. He was not minded to accept the settlement offer of £2000 (hereinafter referred to) since he felt the whole sum was properly due and saw no reason for affording the Respondent a 50% "discount", simply for the sake of expediency. He vehemently denied any allegation of using racist language in his dealings with, or concerning, the Respondent. He felt if the Respondent could pay his staff, who lived in the Property, he should have been able to ensure rent was paid. It was only after repeated efforts to ascertain who was actually living in the Property that he had commenced eviction proceedings but the Respondent moved out anyway, after indicating that if the Applicant persisted in such proceedings, he would pay no more rent. In any event, these were not eviction proceedings but simply proceedings for payment of rent arrears, which the Respondent was not really contesting were due.

The Respondent stated that he had indeed made the first payment but thereafter he had not made payments due to some banking difficulty. However, the rent had been available for collection at his place of business and he had made further payments of rent when he was able. He had tried but been unable to procure Government pandemic assistance and had made a proposal to the Applicant to pay half of the rent due until his shop re-opened, at which time he would address any arrears. He had been concerned to continue paying his staff, some of whom lived in the Property, during the various periods of lockdown. In these circumstances, he felt it was unreasonable of the Applicant to serve him with an "eviction notice" (not produced). He had never said he would not pay rent, he was simply seeking some leeway, given difficulties occasioned by the pandemic. This was not his only business, he also had a kebab shop, which had continued trading healthily unaffected by the pandemic and in addition he let out properties of his own, from both of which enterprises he derived income. He did not wish to disclose how many properties he let out as a landlord. He was prepared to pay £2000 forthwith in full and final settlement of all sums due.

3. FINDINGS IN FACT

That rent arrears due to the Applicant in terms of a Tenancy Agreement with the Respondent have accrued in the sum of £4,100 up till 26 April 2021 and the Respondent is liable for same.

4. REASONS FOR DECISION

I considered carefully all that was stated to me by both parties. However, in view of the concession by the Respondent that, in essence, the rent was due and his (refused) settlement offer, I had no difficulty finding in favour of the Applicant. The Respondent seemed to be a man of business, owning the business employing the staff who lived in the Property, as well as another business disclosed to the Tribunal. In addition, he was a landlord himself of an

undisclosed number of properties. Accordingly, I did not see any reason why he should not now make payment of the arrears sought by the Applicant. In these circumstance, I considered it just to make the award in the sum sought of £4,100.

5. DECISION

To make an order for payment by the Respondent to the Applicant of FOUR THOUSAND ONE HUNDRED POUNDS (£4,100) ONLY.

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.

SR QUITHER

22 JULY 2021

Legal Member/Chair

Date