



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/CV/22/3560

Re: Property at 168 College Street, Aberdeen, AB11 6LA (“the Property”)

Parties:

Martyn Smith, residing at 133 Land Street, Keith, Banffshire, AB55 5LD (“the Applicant”)

Mr Stephen McKerral, residing at 44 Prospect Terrace, Aberdeen, AB11 7TD (“the Respondent”)

Tribunal Members:

Paul Doyle (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 payment should be made.

Background

The Applicant sought an order for payment of rental arrears totalling £2,136.67. The Applicant had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement dated 15/10/2020, a schedule of unpaid rent, inventories taken at the start and end of the tenancy, and invoices for repairs to the property. A copy title sheet was lodged with the Tribunal which showed that the applicant is the joint heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 10.00am on 22/03/2023. The Applicant was represented by Ms L Campbell of Stonehouse Lettings. The respondent did not appear and was not represented.

Ms Campbell explained that an arithmetical error was made when the application was framed. When the various elements of the applicant's claim are added correctly, a net total £2196.67 is arrived at. Ms Campbell sought leave to amend the sum applied for to £2,196.67. That application is unopposed. The sum applied for is now amended to £2,196.67.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property on 15/10/2020. The tenancy terminated when the respondent removed from the property on 25/08/2021.
2. The initial rent in terms of the Tenancy Agreement was £999 per month.
3. The Respondent fell into arrears of rent in July 2021. By the time the tenant vacated the property, there were arrears of rent totalling £1,360.28.
4. Clause 20 of the lease between the parties obliged the respondent to maintain the property in good state of repair. Clause 29 of the lease makes the respondent responsible for the reasonable cost of repairing or replacing damaged property, furnishings, and furniture.
5. When the tenant left the property there was damage to property, and to the furnishings and furniture, which cost £1,835.39 to repair.
6. At the termination of the tenancy agreement the respondent owed the applicant £3195.67, which is the arrears of rental and the cost of repairs to damage for which the respondent is responsible.
7. On taking entry to the property, the respondent paid a tenancy deposit of £999. The tenancy deposit has been paid to the applicant to reduce the sums owed by the respondent. There is a balance due by the respondent to the applicant of £2,196.67, which is the sum applied for.
8. The respondent does not oppose the application.
9. Notice of the date of this hearing was served on the Respondent by sheriff officers on 23 February 2023.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £2,196.67. Rent was lawfully due in terms of clause 8 of the Tenancy Agreement at the rate of £999 per

month. At the termination of the tenancy there were arrears of rental totalling £1,360.28. The respondent is responsible for damage to the property which cost £1,835.39 to repair. At the date of termination of the lease, the respondent owed the applicant £3,195.67. The tenancy deposit has been paid to the applicant, so that the sum due by the respondent to the applicant has reduced to £2,196.67. That sum remains due and resting owing.

Decision

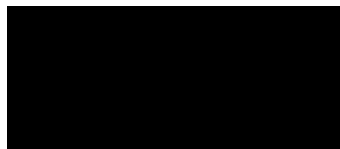
For the foregoing reasons, the Tribunal determined to make an Order for payment.

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.

Where such an appeal is made, the effect of the decision and of any order is suspended until the appeal is abandoned or finally determined by the Upper Tribunal, and where the appeal is abandoned or finally determined by upholding the decision, the decision and any order will be treated as having effect from the day on which the appeal is abandoned or so determined.

Legal Member



Date 22 March 2023