

Housing and Property Chamber
First-tier Tribunal for Scotland



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 (“the Act”) and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/22/0912

Re: Property at 2 Hillhead Of Fechil, Ellon, Aberdeenshire, AB41 8NR (“the Property”)

Parties:

Mr. Bruce Galloway trading as Hillhead & Newton Farms, 58, Hepburn Gardens, St Andrews, Fife, KY16 9DG (“the Applicant”) per his agents, Stonehouse Lettings, 20, High Street, Kemnay, AB51 5NB (“the Applicant’s Agents”)

Mr James Taylor, 53 Dubford Crescent, Bridge Of Don, Aberdeen, AB23 8FT (“the Respondent”)

Tribunal Members:

Karen Moore (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 in the sum of TWO THOUSAND THREE HUNDRED AND NINETEEN POUNDS AND FIFTEEN PENCE (£2,319.15) Sterling

Background

1. By application received between 29 March 2022 and 18 May 2022 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for payment of unpaid rent and damages of £2,319.15 arising from a tenancy between the Applicant as landlord and Ellie Pacitti and David Taylor as tenants in respect of which the Respondent is guarantor. The Application comprised a copy of the guarantee agreement signed by the Respondent, the tenancy check-in inventory with photographs, the tenancy check-out inventory with photographs, statements of the cost of the damage caused by the tenants and a statement of rent due and owing by the tenants to the Applicant showing a total of £3,611.47, evidence of payment of £1,292.32 paid the Applicant by his insurers and copy correspondence from the Applicant’s Agents to the Respondent seeking payment of the balance of £2, 319.15. The Application was accepted by the Tribunal and a Case Management Discussion (the “CMD”) was fixed for 15 August 2022 at 11.30 by telephone conference. The CMD was intimated to the Parties, and in particular, was intimated to the Respondent by Sheriff Officer service on 8 July 2022.

CMD

2. The CMD took place on 15 August 2022 at 11.30 by telephone. The Applicant took part and was represented by Ms. Lisa Campbell of the Applicant's Agents. The Respondent did not take part and was not represented. He did not submit any written representations.
3. Ms. Campbell confirmed the sum sought and advised that the Respondent had been in touch with her office to enquire if the tenants had made payment. She confirmed that neither the tenants nor the Respondent had made any payment.

Findings in Fact

4. From the Application and the CMD, the Tribunal made the following findings in fact: -
 - i) There had been a tenancy of the Property between the Applicant as landlord and Ellie Pacitti and David Taylor as tenants;
 - ii) The Respondent is guarantor in respect of that tenancy and guaranteed the whole obligations of that tenancy;
 - iii) The tenants accrued rent arrears and caused damage to the Applicant's furnishings and fittings to a total sum of £3,611.47;
 - iv) The Applicant recovered £1,292.32 of this sum from his insurers;
 - v) A balance of £2,319.15 remains outstanding and due and owing to the Applicant;
 - vi) In terms of the guarantee, the Respondent is liable to make payment of this sum.

Decision

5. Having made those findings, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussionincluding making a decision" and so proceeded to make an order for payment in the sum of £2,319.15.

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.

Karen Moore

Legal Member/Chair

15 August 2022
Date

