



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/CV/20/0139

Property: Ground Floor, 10 George Street, Howwood, Johnstone PA9 1AR (“the property”)

Parties:

Mr Martin Docherty, 40 Brisbane Street, Greenock, Inverclyde PA16 8NP per Mr Martyn Johnstone, Pennylane Homes in Johnstone, c/o 36 High Street, Johnstone PA5 8AH (“the applicant”)

Mrs Janet McDougall, residing formerly at the property and whose whereabouts are currently unknown to the tribunal (“the Respondent”)

Tribunal Member:

David Preston (Legal Member) (“the tribunal”)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent to the applicant of the sum of Five hundred and seventy five pounds (£575) should be made.

Background:

1. By application dated 25 November 2019 the applicant applied for an order for payment in respect of arrears of rent amounting to £1050 together with various sums in respect of replacement and repairs for damaged or missing items totalling £938, less the deposit recovered of £475.
2. The papers before the tribunal comprised: Tenancy Agreement dated 9 February 2018 and associated papers; inventory and checkout reports with photographs; and rent statement covering the period 9 February 2018 to 9 September 2019 showing arrears of rent to that date of £1050.
3. By Decision dated 23 February 2020, a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal. A letter of Intimation dated 4 March 2020 with Notice of a Case Management Discussion (CMD) to be held on 7 April 2020 was returned by Sheriff Officers who had been unable to serve

the Notice on the respondent. Thereafter a Notice of CMD scheduled for 12 August 2020 was served on the respondent by advertisement on 8 July 2020 conform to Certificate of Service by Advertisement dated of that date.

Case Management Discussion

4. On 12 August 2020 a hearing was convened by telephone in accordance with the provisions for dealing with business during the COVID-19 pandemic. Present by telephone at the CMD was Mr Martyn Johnstone on behalf of the applicant. There was no attendance by or on behalf of the respondent.
5. Notice of the CMD had been served on the respondent by advertisement as detailed above.

Findings in Fact

6. The parties entered into a Private Residential Tenancy Agreement that commenced 9 February 2019 at a rent of £475 per month. A deposit of £475 was paid by the respondent.
7. The respondent last paid rent on 7 August 2019.
8. The respondent accrued rent arrears as at 9 September 2019 amounting to £1050.
9. By letter dated 29 January 2020 and Direction of the tribunal dated 10 July 2020 the applicant was required to lodge with the tribunal invoices to support the sums being claimed by the applicant for damages for missing or replaced items. No such invoices were produced by the applicant.

Discussion:

10. Mr Johnstone acknowledged that the applicant had been unable to obtain invoices from the suppliers and was aware that in the absence of such evidence the tribunal was unable to grant an order for payment in respect of those elements of the claim.
11. Mr Johnstone confirmed that the applicant had recovered the full deposit of £475 and indicated that the sum sought accordingly amounted to £575.

Reasons for Decision:

12. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
13. The tribunal accepted the information in the file and as provided by Mr Johnstone and determined to issue the order for payment in the reduced sum of £575.

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.

David Preston

12 August 2020