



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) Act 2016

Chamber Ref: FTS/HPC/CV/21/2509

Re: Property at 60 Smithfield Crescent, Blairgowrie, PH10 6UE (“the Property”)

Parties:

Mrs Susan McArdle and Mr Richard McArdle, Knowehead of Auldallan Farm, Balintore, Kirriemuir, DD8 5JS (“the Applicants”)

Mr Andrew McKenzie, previously residing at 60 Smithfield Crescent, Blairgowrie, PH10 6UE and whose present whereabouts are unknown (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicants in the sum of TWO THOUSAND AND SEVENTY THREE POUNDS AND THIRTY TWO PENCE (£2073.32) STERLING. The order for payment will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an application dated 13 October 2021 made by the Applicants for an order for payment of rent arrears and damages under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties signed and dated 1 October 2019, a rent

statement to April 2021 showing arrears of £1600, various photographs and receipts.

3. On 23 December 2021 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 27 January 2022 the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 11 March 2022. This paperwork was unable to be served on the Respondent as his whereabouts were unknown. The CMD assigned for 11 March 2022 was accordingly discharged and a new CMD assigned for 5 April 2022. The application was thereafter served on the Respondent by advertisement in terms of Rule 6A of the Rules. A copy of the Execution of Service was received by the Tribunal administration and placed before the Tribunal.

Case Management Discussion

5. The Tribunal proceeded with a Case Management Discussion on 5 April 2022 by way of teleconference. The Applicants appeared on their own behalf with Mrs McArdle speaking on their part. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
6. The Tribunal had before it the Private Residential Tenancy Agreement between the parties signed and dated 1 October 2019, a rent statement to April 2021 showing arrears of £1600, photographs and various receipts.
7. Mrs McArdle moved the Tribunal to grant an Order for payment of £2073.33. She explained the tenancy had terminated on 8 April 2021, that the Respondent had put some but not all the keys through the letterbox and had left the Property in a terrible state. She did not think the Property had been cleaned by the Respondent since he moved in. They had spent £300 getting it cleaned so it was again in a state it could be re-let. She had to replace some of the keys that the Respondent not returned at a cost of £111.96. Some of the vertical blinds had been damaged. They had had to replace the individual parts of the blinds and not the whole blinds at a cost of £12.87 and had spent £40 on paint, £3.49 on a paint roller set and £5 on masking tape. She referred the Tribunal to the receipts lodged with the application.
8. She explained the arrears as at the date of termination were £2400 as stated on the rent statement lodged. The Applicants had recovered the full amount of the tenancy deposit of £800 after the termination. That deposit had been applied to the arrears reducing them to £1600. Mrs McArdle accordingly sought a payment Order for payment of £2073.32 being £1600 arrears and £473.32 for damages. The Tribunal noted that in terms of Clause 7 of the

tenancy agreement the monthly rent was £800, that in terms of Clause 10 a deposit of £800 had to be paid, that in terms of Clause 16 the Respondent had agreed to keep the Property clean and tidy and that in terms of Clause 17 he was liable for damage caused by his fault and negligence.

Findings in Fact

9. The Applicants and the Respondent agreed by way of Clause 7 of a Private Residential Tenancy Agreement dated 1 October 2019 in relation to the Property that the Respondent would pay the Applicants a monthly rent of £800. In terms of Clause 10 of the Tenancy Agreement the Respondent paid a deposit of £800. They agreed that in terms of Clause 16 the Respondent was to keep the Property clean and tidy and that in terms of Clause 17 the Respondent was liable for damage caused by his fault and negligence
10. The tenancy terminated on 8 April 2021. The Respondent did not return all of the keys. The keys had to be replaced by the Applicants at a cost of £111.96.
11. The Respondent left the Property in an unclean state. The Applicants had to pay £300 to have the Property cleaned and touch painted areas up at a cost of £48.49 in order to return the Property to a state where it could be re-let.
12. The Respondent damaged the blinds at the Property. The replacement blind slats had to be replaced by the Applicants at a cost of £12.87.
13. The Respondent fallen into arrears of rent. The arrears at termination were £2400. The Applicants recovered the deposit of £800 after the tenancy terminated leaving arrears of £1600.

Reasons for Decision

14. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mrs McArdle
15. The Tribunal noted the terms of the tenancy agreement, the rent statement lodged which set out how the arrears had arisen and showed the total arrears to April 2021 as being £1600 together after the tenancy deposit of £800 was returned and the various receipts for damages and cleaning amounting to £473.32. The Tribunal accepted the submissions of Mrs McArdle as being credible. The amount spent to put the property back into a state where it could be re-let was reasonable. The Applicants were entitled to recover their losses in doing so. The Respondent had agreed to meet these losses and pay rent under the tenancy agreement. Mrs McArdle had produced evidence of persistent non- payment of rent and receipts for damage to and cleaning of the Property. She clearly submitted that after the tenancy had terminated on 8 April 2021 the tenancy deposit of £800 had been recovered in full and applied to the arrears leaving a sum outstanding of £1600. The Tribunal was satisfied

on the basis of the documents, together with Mrs McArdle's submissions that the order for payment in favour of the Applicants be granted.

Decision

16. The Tribunal granted an order for payment of £2073.32.

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.

Shirley Evans

5 April 2022

Legal Member

Date