



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/22/3201

Re: Property at Arrats Mill House, Arrat, Brechin, Angus, DD9 7PR (“the Property”)

Parties:

The Earl of Southesk 1951 Settlement, Duke of Fife, Peter D R Landale, Charles - Ian Wolrige Gordon, Estate Office, Haughs of Kinnaird, Brechin, Angus, DD9 6UA; Kinnaird Castle, Brechin, Angus, DD9 6TZ; Dalswinton, Dumfries, Dumfries-shire, DG2 0XZ; Esselmont, Ellon, Aberdeenshire, AB41 8PA (“the Applicant”)

Mr Mark Johnston, Mrs Susan Johnston, Arrats Mill House, Arrat, Brechin, Angus, DD9 7PR (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £12,020.00.

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the Respondents.
2. By decision dated 29 September 2022, a Convenor of HPC having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion.

3. The Notice of Acceptance was intimated to the Applicant's representative on 4 October 2022. The Tribunal intimated the application to the parties by letter of 16 November 2022 and advised them of the date, time and conference call details of today's case management discussion. In that letter, the parties were also told that they were required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 7 December 2022. No written representations were received by the Tribunal.

The case management discussion

4. The case management discussion took place by conference call. The Applicant was represented by Mr Dymock. The Respondents did not join the conference call and the discussion proceeded in their absence. The Applicant's representative explained that the Respondents have incurred significant rent arrears over a period of time. The rent statement lodged accurately reflects the level of rent arrears at the time the application was submitted. Since then, the Respondents have maintained payment of rent in the sum of £1,695. The Applicant served a rent increase notice on 29 June 2022, increasing the rent to £1,850 per month from 1 October 2022. The Respondents have never made payment of rent in that sum and as a result, rent arrears have continued to increase. The Applicant has made contact with the Respondents numerous times in relation to rent arrears and the Respondents have advised that they will make additional payments in order to reduce the level of arrears. However, payments have not been made to reduce the rent arrears. The Applicant's representative moved for an order for payment in the sum of £12,020.00.

Findings in Fact

5. The parties entered into a private residential tenancy which commenced 1 August 2018.
6. The Respondents were initially obliged to pay rent at the rate of £1,695 per month, in advance.
7. The rent due by the Respondents was increased to £1,850 per month with effect from 1 October 2022.
8. As at 2 September 2022, the rent arrears due by the Respondents amounted to £12,020.00.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the case management discussion. The Respondents failed to participate in the discussion and did not lodge any written submissions. The rent statement lodged demonstrated a significant level of rent arrears. There was nothing to indicate that the Respondents disputed the level of rent

arrears shown on the rent statement. The Tribunal was satisfied that the sum of £12,020.00 is due to the Applicant in respect of rent arrears.

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.

Nicola Irvine

Legal Member/Chair

19 December 2022

Date