



Decision 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/23/1877

Re: Property at 42a Mainhead Terrace, Cumbernauld, Glasgow, G67 2SP (“the Property”)

Parties:

Ms Tracey McNulty, 8 Chamomile Close, Liverpool, L11 2YX (“the Applicant”)

Ms Dani Bird, 42a Mainhead Terrace, Cumbernauld, Glasgow, G67 2SP (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs H Barclay (Ordinary 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 granted in favour of the Applicant in the sum of £1145.

Background

1. This is a Rule 111 application made in the period between 7th June and 7th July 2023. The Applicant was seeking an order for payment for outstanding rent arrears in the sum of £1145. The Applicant lodged a copy of a private residential tenancy agreement between the parties that commenced on 29th May 2022, a rent statement and bank account screenshots.
2. The application and notification of a forthcoming Case Management Discussion was served upon the Respondent by Sheriff Officer on 14th September 2023.
3. By email dated 14th October 2023, the Applicant lodged further productions including a rent statement showing a balance of £1605 outstanding in rent arrears as at September 2023.

The Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 24th October 2023. The Applicant was in attendance. The Respondent was not in attendance. The Applicant said she had received a message from the Respondent the previous evening stating that she did not intend to attend the CMD and was not opposing the order.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. The Applicant explained the background to the application. The Respondent is in receipt of Universal Credit, which partially covers the rent, but she has not been paying the remainder. The Respondent has been in and out of work and this has affected payment. When on Universal Credit, the Respondent delayed in claiming housing benefit.
7. The Tribunal explained that, in the absence of a formal application to amend the sum sought, it would only consider granting an order in the original sum. The Tribunal offered the Applicant the opportunity to continue the CMD to another CMD to allow her to make an application to amend. The Applicant asked the Tribunal to grant an order in the original sum of £1145.

Findings in Fact and Law

8.
 - (i) Parties entered into a private residential tenancy that commenced on 29th May 2022 with a monthly rent of £400.
 - (ii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - (iii) The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

9. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

10. An order for payment is granted in favour of the Applicant in the sum of £1145.

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.



Legal Member/Chair

Date: 24th October