



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/23/0764

Re: Property at 144 Cornhill Terrace, Aberdeen, AB16 5EW (“the Property”)

Parties:

Northwood (Aberdeen) Ltd, 207-211 Rosemount Place, Aberdeen, AB25 2XS (“the Applicant”)

Ms Karen Faulds, 144 Cornhill Terrace, Aberdeen, AB16 5EW (“the Respondent”)

Tribunal Members:

Yvonne McKenna (Legal Member) and Leslie Forrest (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 be made against the Respondent in favour of the Applicant in the amount of £8100 (eight thousand one hundred pounds only).

Background

1. The Applicant sought an order for payment of £6075 in respect of rent arrears. The Applicant had lodged Form F dated 9 March 2023. The documents produced were a Tenancy Agreement with a start date of 1 April 2022; a rent statement showing arrears of £3375 at 6 October 2022; and sheriff officer’s execution of service certifying service of the Application on 19 May 2023.

The Case Management Discussion (CMD)

2. The CMD took place by teleconference on 21 June 2023. The Applicant was represented by Mr Scott Morrison. The Respondent was absent. No written representations had been received from the Respondent by the Tribunal.

3. The CMD was conjoined with an application for an Eviction Order under Reference FTS/HPC/EV/23/0762.
4. An updated rent statement had been produced to the Tribunal. This showed that no payments of rent had been made by the Respondent since the application was made to the Tribunal and the rent arrears as at the date of the CMD amounted to £8100.
5. The Tribunal went over the paperwork and the prior procedure. The purpose of the CMD was explained, and that in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ('the Rules') the Tribunal may do anything at a CMD which it may do at a Hearing, including making a decision.
6. Mr Morrison said that the most recent communication he had with the Respondent was on 9 June 2023 and had been in relation to a routine inspection of the Property. The Respondent had stated to the Applicant's Representative in response to this email that no one would enter the Property until after the CMD on the 21 June 2023. She was accordingly aware of the date. There had been no recent communication regarding the rent arrears. The Applicant's Representative had also on the 9 June 2023 advised the Respondent of the outstanding rent and pointed her again in the direction of the Government website regarding rent arrears and help agencies. There had been no response by the Respondent to this.
7. Mr Morrison said that the initial tenancy agreement had a start date of 1 April 2022. The tenancy agreement provided for rent to be paid at the rate of £675 per month. The Applicant had carried out appropriate references and had credit checked the Respondent. There was nothing untoward and the tenancy was entered on that basis.
8. There had been some initial issues regarding a leak in the bathroom of the Property which had been checked and repaired. At one point the Respondent had withheld rent as she did not have the full use of her bathroom. Once this issue was resolved there was another issue where the Respondent complained of mice or rats in the Property and the Applicant had sent a pest controller to the Property who had blocked up areas to prevent access by any rodents.
9. After that the Applicant had expected the rent to be paid again. The Applicant had not received much response at all from the Respondent who eventually indicated that she had been burying her head in the sand for which she had apologised. She stated that she had been involved in a car crash and had been absent from her work and unable to pay the rent.
10. The Applicant had made enquiries regarding what was a manageable amount to pay to stop the arrears accumulating and to look at a payment plan but

there had been a lack of willingness on the Respondent 's behalf to deal with this.

11. When the Notice to Leave was served the Applicant had stated that this could be revoked if something could be sorted out by way of a payment plan. The Notice to Leave stated that proceedings would not be raised before 1 January 2023 and the Applicant had waited until 9 March 2023 to give the Respondent some time to sort the situation. During that two months there was ongoing correspondence with the Respondent but the Respondent refused to co-operate and was insistent that she would only enter a payment plan if she was given a guarantee that the Eviction application would not be made.
12. Mr Morrison said that the Respondent is a single mother with three children two of whom are younger and one of whom is aged approximately 20 years. When she first entered the tenancy agreement he understood the Respondent had a mixture of working which involved her working from home and also being office based. During discussions that he had with the Respondent after she moved in she had started a new job but was signed off after her motor vehicle accident .She had sustained a broken collar bone. She had told Mr Morrison that her employer had released her as she was unable to work.
13. There were no adjustments carried out at the Property regarding any disability issues.
14. Mr Morrison was able to direct the Tribunal to e-mails which he had sent to the Respondent suggesting she speak with Money Advice Scotland.
15. The Applicant had in terms of the Form E requested that eviction be granted under Ground 8 as opposed to Ground 12. The Tribunal noted that the Notice to Leave stated that the Respondent was in arrears of rent of £3375 and that the Respondent was in arrears over three consecutive months. This was also the specified reason stated on the Form E. At the time the Notice to Leave was served the Respondent was in arrears of at least 3 months' rent. The specifics of the Ground were satisfied it was just the wrong number had been inserted in the Form E and the Tribunal allowed an amendment in terms of Rule 13.
16. Included in the Form E was a request to apply for eviction under Ground 8A, (which should have been Ground 12 A). Mr Morrison accepted that at the time the Notice to Leave was served that the arrears of rent did not amount to 6 months of rent due.

Findings in Fact

17. The Tribunal made the following findings in fact:

- (i) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced on 1 April 2022;
- (ii) In terms of Clause 8 of the Agreement the Respondent was due to pay rent to the Applicant in the sum of £675 per calendar month payable in advance;
- (iii) The Applicant has served a Notice to Leave on the Respondent on the basis of Ground 12 of Schedule 3 to the 2016 Act, and which was served on 6 October 2022;
- (iv) On 6 October 2022 the Respondent was in rent arrears over three consecutive months;
- (v) The Respondent has been in continuous arrears of rent since June 2022;
- (vi) The Respondent is in arrears of rent amounting to £8100 at the date of the CMD.
- (vii) The Respondent is due to pay the sum of £8100 to the Applicant in respect of arrears of rent.

Reasons for Decision

18. The Tribunal was satisfied that the amount sought in the application had become lawfully due by the Respondent to the Applicant.

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.

 **Yvonne McKenna**

Yvonne McKenna

Legal Member/Chair

21 June 2023

Date