



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/23/2707

Re: Property at 143 Drum Street, Gilmerton, Edinburgh, EH17 8RU (“the Property”)

Parties:

Drum Farm LLP, 147 Drum Street, Gilmerton, Edinburgh, EH17 8RX (“the Applicant”)

Ms Ria Thomson, 143 Drum Street, Gilmerton, Edinburgh, EH17 8RU (“the Respondent”)

Tribunal Members:

Jan Todd (Legal 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 of the sum of £51,435 be made by the Respondent to the Applicant.

- **Background**

1. This was the first case management discussion (CMD) in respect of an application by the Applicant dated 7th August 2023 for an order for payment of arrears of rent from the Respondent who is the Tenant in a Tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

- A copy of a Tenancy Agreement dated 3rd August 2020 between the Applicant as Landlord and the Respondent who is the Tenant.

- Statement of rent arrears showing a sum outstanding as at August 2023 of £51,435.
2. The case management discussion (CMD) proceeded today by way of teleconference.
 3. Service was validly affected on the Respondent by Service by Sheriff Officers who served the papers on the Respondent on 23rd October 2023 personally at the Property.

- **The Case Management Discussion**

1. The CMD took place by teleconferencing and the Legal Member waited until 10.10 to see if the Respondent was going to join the call. The Respondent did not join and was not represented at the CMD. The Respondent has not lodged any written submissions for the Tribunal to consider.
2. The legal member made introductions and explained the purpose and order of proceedings also advising that the Tribunal could make a decision after a CMD which it could after a hearing if satisfied it was appropriate to do so.
3. The Applicants' representative Ms Leanne Young of DJ Alexander attended on the call. The legal member considered it appropriate to continue with the CMD given that intimation had been given to the Respondent and she has not responded in writing or requested any postponement of today's CMD.
4. Ms Young advised that her client was seeking an order for payment of £51,485 as the rent outstanding and not paid by the Respondent. She advised that the Applicants have tried to contact and come to an arrangement with the Respondent with regard to a payment plan but there has been no response to phone calls or visits and no payment plan is agreed. Ms Young advised that as per the statement lodged the arrears are now substantial and no payment has been made for over 2 years.
5. She confirmed that the tenant is still living in the Property and a notice to leave has been served and the Applicant is currently waiting for the expiry of the notice to raise a new eviction action.
6. The legal member then asked about the apparent increase in rent of £50 which is shown on the rent due for August 2023 on the rent statement and Ms Young advised that she did not have any copies of the rent increase notice that should be sent to the tenant as her agency has only recently been instructed but confirmed she was content to seek an order of payment today for the full arrears with the £50 deducted.

Findings in Fact

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 3rd August 2020.
2. The Rent due in terms of the lease is £1,695 per calendar month payable in advance
3. The tenant remains in the property and the rent is still accruing.

4. The rent outstanding at 3rd August 2023 without any increase of rent is £51,435.

- **Reasons for Decision**

5. The parties have entered into a lease where the Respondent has leased the property from the Applicant from 3rd August 2020 and has agreed to pay £1695 per calendar month in rent.
6. The Respondent has failed to pay the full rent due. The rent statement shows that the Respondent paid the deposit and the first 3 months up front on 31st July 2020 but from December 2020 arrears started to accrue with £2,190 owed from January 2021. No payments were made from February 2021 to July 2021 and only some payments to account were made thereafter, with no further payments being made after 22nd September 2021 to date. The total arrears shown on the rent statement amount to £51,485 however the Applicant's representative agreed that an increase in rent of £50 has been applied in August 2023 but as the tribunal has had not sight of the rent increase notices Ms Young agreed that she would only seek the original sum of rent, meaning a deduction of £50 leaving a total of £51,435 due. The Tribunal accepted that the Applicant has tried to contact and come to an arrangement for payment with the Respondent but has had no response.
7. The Respondent was served notice of this application personally by sheriff officer on 23rd October 2023 and has not made any written representations or attended this CMD.
8. The Tribunal accepts the written evidence and verbal statements made by the Applicants' representative who the Tribunal found clear and credible in their evidence that the rent outstanding as of 13th May is £51,435 without the addition of the £50 rent increase which the Tribunal did not have any evidence to support. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

- **Decision**

An order for payment of the sum of £51,435 is granted.

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.

J Todd

Legal Member/Chair

Date 30/11/23