



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/23/2915

Re: Property at 100 The Auld Road, Cumbernauld, G67 2RH (“the Property”)

Parties:

Mr Manish Khanna, 1 Golf Road, Glasgow, G76 7HU (“the Applicant”)

Miss Sharon McCulloch and Mr Donny Scott, 100 The Auld Road, Cumbernauld, G67 2RH (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondents in favour of the Applicant in the sum of TWO THOUSAND THREE HUNDRED AND FIFTY-THREE POUNDS (£2353.00) STERLING. The order for payment will be issued to the Applicant 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 Respondents.

Background

1. This is an action for recovery of rent arrears in terms of 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 dated 28 and 29 July 2021 and

starting on 1 August 2021 and a rent statement to 1 August 2023 showing arrears of £2353.00.

3. On 10 September 2023 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 23 October 2023 the Tribunal enclosed a copy of the application and invited the Respondents to make written representations to the application by 13 November 2023. The Tribunal advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 30 November 2023. This paperwork was served on the Respondents by Chelsea Murray, Sheriff Officer, Glasgow on 24 October 2023 and the Executions of Service were received by the Tribunal administration.
5. On 2 November 2023 the Tribunal issued a Notice of Direction to the Applicant’s agent to provide proof to the Tribunal that the Applicant was the registered Landlord of the Property as a third party was registered as the Landlord in the Landlord’s Register. The Tribunal also requested the Applicant provide an up-to-date rent statement.
6. On 17 November 2023 the Applicant’s agent forwarded a rent statement to 1 November 2023 showing arrears of £3275. The agent did not provide evidence that the Applicant was the registered Landlord and provided information which conformed to the information the Tribunal had that a third party was the registered Landlord. This information was passed to the Respondents.
7. On 21 November 2023 the Respondents emailed the Tribunal to advise they had no dealings with the person named as the registered Landlord.
8. On 22 November 2023 the Tribunal emailed the Applicant’s agent to advise the Applicant had not complied with the Notice of Direction and that the Tribunal required proof that the Applicant was the registered Landlord.

Case Management Discussion

9. The Tribunal proceeded with a CMD on 16 November 2023 by way of teleconference. Ms Spence from McTurk and Muir Lettings for the Applicant attended. The Applicant, Mr Khanna was also in attendance. There was no appearance by or on behalf of the Respondents despite the teleconference starting 5 minutes late to allow the Respondents plenty of time to join. The Tribunal was satisfied the Respondents had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in their absence.

10. The Tribunal had before it the Private Residential Tenancy Agreement dated 28 and 29 July 2021 and starting on 1 August 2021 and a rent statement to 1 November 2023 showing arrears of £3275. The Tribunal considered these documents.
11. Before formally starting the CMD the Tribunal questioned Ms Spencer with regards to the issue of Landlord registration. Mr Khanna asked to explain the position. He advised that the third party named as the registered Landlord was his business partner. As the Tribunal had recently highlighted that he himself was not showing as being registered they were taking steps to rectify that with Landlord registration.
12. Ms Spencer asked the Tribunal to award an order payment for rent arrears, The Tribunal noted the terms of Clause 7 of the Private Residential Tenancy that the Respondents had agreed to pay rent of £475 per month. With reference to the rent statement to 1 November 2023 the Tribunal noted the arrears had increased from the sum sought in the application of £2353 to £3275. Mr Khanna explained rent had increased from 1 August 2023 to £489. The Respondents last paid rent of £495 on 25 August 2023 and then made another payment of £50 on 31 August 2023. No further rent had been paid.

Findings in Fact

13. The Applicant and the Respondents entered into a Private Residential Tenancy Agreement dated 28 and 29 July 2021 and starting on 1 August 2021.
14. The Respondents agreed by way of Clause 7 of the Private Residential Tenancy Agreement that they would pay a monthly rent for the Property of £475. The rent was increased to £489 on 1 August 2023.
15. The Respondents have fallen into arrears of rent and are in breach of Clause 7 of the tenancy agreement. The last payments were of £495 on 25 August 2023 and of £50 on 31 August 2023. No further payments have been made.
16. Arrears have increased to 1 November 2023 of £3275.

Reasons for Decision

17. 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 Ms Spencer and the Applicant.

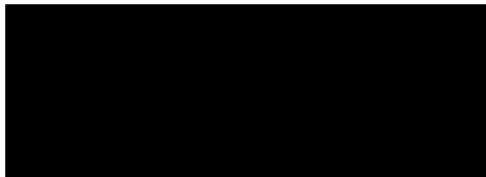
18. The Tribunal noted the terms of the tenancy agreement, and the rent statements lodged which set out how the arrears had arisen. The Applicant had produced evidence of persistent non-payment of rent. The Respondents had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with the submissions that an order for payment in favour of the Applicant be granted for the amount claimed of £2353.

Decision

19. The Tribunal granted an order for payment of £2353.

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.



30 November 2023

Legal Member

Date