



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/23/1936

Re: Property at 3 Fonthill Avenue, Aberdeen, AB11 6TF (“the Property”)

Parties:

Mrs Carole Lovie, Mr Neil Lovie, 22 Brighton Place, Aberdeen, AB10 6RS (“the Applicant”)

Miss Kirsten Thom, 15 Braco Street, Keith, AB55 5BZ (“the Respondent”)

Tribunal Member:

Ms H Forbes (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 should be granted in favour of the Applicant in the sum of £1750.

Background

1. By application made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £1750 in respect of unpaid rent. The Applicant lodged a copy of the private residential tenancy agreement between the parties, which commenced on 1st August 2021 with monthly rent due in the sum of £575. The tenancy ended on 4th May 2023. The Applicant also lodged bank statements and copies of social media correspondence between the parties.
2. A Case Management Discussion (“CMD”) took place by telephone conference on 5th October 2023. The CMD was adjourned to a further CMD as the Respondent had notified the Applicant that she was having difficulty joining the call. The Tribunal Clerk made efforts to contact the Respondent by telephone with no success.

3. A Direction was issued to parties dated 5th October 2023 requiring the Applicant to lodge a rent statement, and requiring the Respondent to lodge written representations setting out her position in respect of the application.
4. By email dated 18th October 2023, the Applicant lodged a rent statement.
5. No representations were received from the Respondent.
6. Notification of a further CMD was made upon parties on 17th November 2023.

The Case Management Discussion

7. A Case Management Discussion (“CMD”) took place by telephone conference on 8th January 2023. Mrs Lovie was in attendance. The Respondent was not in attendance.
8. 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.
9. Mrs Lovie moved the Tribunal to grant an order in the sum of £1725, being the current arrears. Mrs Lovie said she had contacted the Respondent on 6th January 2024 to ask if she would be attending the CMD. The Respondent had informed Mrs Lovie that she was unaware of the CMD, as she had not received notification. Mrs Lovie provided the Respondent with a copy of the notification.

Findings in Fact and Law

10.
 - (i) Parties entered into a private residential tenancy agreement that commenced on 1st August 2021 with monthly rent due in the sum of £575.
 - (ii) The tenancy ended on 4th May 2023.
 - (iii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - (iv) The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

11. The Tribunal considered the issue of whether the Respondent had received timely notification of the CMD. Notification was made upon the Respondent by posting a letter dated 17th November 2023, in the usual manner. The Tribunal considered it was incumbent upon the Respondent, having also been informed by the Applicant in advance of the CMD, to make contact with the Housing and Property Chamber if there was any issue in respect of

notification or attendance at the CMD. In the absence of any such communication or contact from the Respondent, the Tribunal considered on the balance of probabilities that the Respondent had been notified of the CMD and had chosen not to attend.

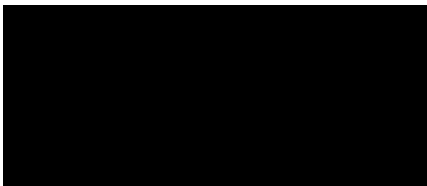
12. The Tribunal took into account that correspondence between parties within the case papers did not disclose any defence by the Respondent to the application. Offers by the Applicant for the Respondent to make payment of the arrears by instalment had not been taken up. On 11th May 2023, after the tenancy had ended, the Respondent promised the sum of £1750 to the Applicant, but this was not paid. In messages thereafter, the Respondent stated that she would paying the outstanding rent. On 1st June 2023, the Respondent stated that she could not make payment and she would have to go with a payment order. This indicated that the Respondent accepted that the outstanding sum was due.
13. The Tribunal took into account that a previous CMD had been adjourned due to alleged difficulties by the Respondent in joining the call. The Respondent was then given an opportunity to lodge written representations, but chose not to do so.
14. In all the circumstances, and taking into account the overriding objective to avoid delay so far as compatible with the proper consideration of the issues, the Tribunal decided to grant an order for payment.
15. 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

16. An order for payment is granted in favour of the Applicant in the sum of £1750.

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

8th January 2024
Date