



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/23/3228

Re: Property at 12 Atholl Place, Linwood, Renfrewshire, PA3 3QZ (“the Property”)

Parties:

Mr Robert McCulloch, 28 Fulbar Crescent, Paisley, PA2 9AS (“the Applicant”)

Mr Jason Lennie and Mrs Marjan Lennie, 86 Kintyre Avenue, Linwood, Renfrewshire, PA3 3JB (“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 EIGHT HUNDRED AND FORTY POUNDS AND THIRTEEN PENCE (£2840.13) 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 and damages raised 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 10 June 2019, photographs of the**

Property, a letter dated 4 July 2023 with invoices for damages and arrears, contractors' invoices and rent statements.

3. On 23 October 2023, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 23 November 2023 the Tribunal enclosed a copy of the application and invited the Respondents to make written representations to the application by 14 December 2023. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 23 January 2024. This paperwork was served on the Respondents by Stuart Sinclair, Sheriff Officer, Glasgow on 29 November 2023 and the Executions of Service were received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with a CMD on 23 January 2024 by way of teleconference. Mr McCulloch the Applicant appeared on his own behalf. There was no appearance by or on behalf of either Respondent despite the CMD starting 10 minutes late to give them 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.
6. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 10 June 2019, photographs of the Property, a letter dated 4 July 2023 with invoices for damages and arrears, contractors' invoices and rent statements. The Tribunal considered these documents.
7. Mr McCulloch explained to the Tribunal that he was seeking a payment order for £2840.13. He explained the Respondents had been evicted from the Property on 14 July 2022. After he received the full deposit of £595 back, there were outstanding arrears of £161.13 as shown in the rent statement. The Property had been left by the Respondents in a terrible state. He referred the Tribunal to the "before and after" photographs lodged. He pointed out that a window and the banister had been painted in black gloss, the living room and the door to the living room including the glass had been painted lime green, there was damage to sockets, doors were off their hinges, walls had been scribbled and drawn on, carpets damaged and there was rubbish and various items left in the Property for which he needed to hire a skip. He explained that he carried out a lot of the work himself as he could not afford to get tradesman in so he spent a period of over three months decorating. He pulled tradesman into do jobs he could not do such as the joinery work for the doors. He charged the Respondents for his time and for the invoices from the tradesman he used. He sent these to the Respondents on 4 July 2023. The Tribunal noted the invoices, photographs and the letter with invoices. Mr McCulloch explained that he has since sold the Property.

Reasons for Decision

8. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement, the photographs, the invoices and the rent statements. Further the Tribunal considered Mr McCulloch's submissions. The Tribunal was satisfied that the Applicant had suffered losses as a result of the state of the Property following the Respondents being evicted. It was clear from the photographs that the Property had been left in an entirely unsatisfactory state which would require extensive works including redecoration before the Applicant could sell it. The Tribunal was satisfied that an order for payment in favour of the Applicant be granted.

Decision

9. The Tribunal granted an order for payment of £2840.13 in favour of 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.



24 January 2024

Legal Member

Date