



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/23/2749

12 Iris Court, Ayr, KA7 3XQ ("the Property")

Parties:

Euan Blaikie residing at 71 Ardlochan Road, Maidens, Girvan, KA26 9NS ("the Applicant")

Norman Fraser, Wallace Hodge, Solicitors, Ayr, KA7 1UP ('The Applicant's Representative')

Lyndsey Stafford and David Marshall residing at 9 Tiree Avenue, Ayr, KA7 4FQ ("the Respondents")

Gerard Tierney ('The Respondents' Representative')

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Members: Jacqui Taylor (Legal Member) and Donald Wooley (Ordinary Member)

Decision

The Tribunal determined that an order for payment would be issued requiring the Respondent to pay the Applicant the sum of £3500 and a time to pay direction should also be issued for the sum of £3500 to be paid in monthly instalments of £60 commencing on 1st April 2024.

Background

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent in the sum of £4680 being the sum outstanding as at 11th August 2023.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicants were:

2.1 A copy of the Tenancy Agreement.

2.2 Rent Statement

3. Requirements of Section 111 of the Procedure Rules.

3.1 In connection with the requirements of section 111 the Tribunal determined that the application correctly detailed the requirements of section 111(i), (ii) and (iii) of the Procedure Rules namely:-

(i) the name and address of the Applicant.

(ii) the name and address of the Respondent.

(iii) the reason for making the application.

3.2 The Tribunal also confirmed that the application had been accompanied by the documents specified in **Section 111(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statement of rent arrears.

4. Outcome

This case called for a Case Management Discussion (CMD) at 10.00 on 13th March 2024.

The Applicant did not attend but his solicitor Norman Fraser attended on his behalf. The Respondents attended together with their representative Gerard Tierney.

4.1 The Applicant's representative advised the Tribunal that the outstanding rent due by the Respondents to 21st February 2024 amounted to £8190.

4.2 Ms Stafford and Mr Tierney explained to the Tribunal that they considered deductions were due amounting to £6663.15. They explained to the Tribunal the reasons for the deductions which were as follows:

4.2.1 Errors had been made in the lease and relative notices.

4.2.2 Repairs had not been carried out by the Applicant.

4.2.3 Payments had been made to Mr Forrest in August and September 2020 that had not been included in the rent statement produced to the Tribunal amounting to £1953.15.

4.2.4 The notice advising the Respondents on the rent increase was not served on them until 6th January 2023 and contained errors, including the Property address.

The full reasons are not included in this decision as the parties reached agreement after two adjournments. They agreed that the sums due by the Respondents amount to £3500. They also agreed that the deposit of £550 should be repaid to the Landlord and the remaining rent should be paid at monthly instalments of £60 per month with the first instalment being paid on or before 1st April 2024.

The Respondents completed a Time to Pay Direction application accepting that the sum due amounted to £3500 and requesting monthly instalments of £60 per month. The Time to Pay Direction application was accepted by the Landlord's solicitor.

5. The Tribunal made the following findings in fact:

5.1 The Respondents were Tenants of the Property in terms of the lease between the parties.

5.2. The lease was a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

5.3. The Applicant was Landlord of the Property and heritable proprietor of the Property.

5.4 The title of the Property is Land Certificate title number AYR16100.

5.5 The Tenancy commenced on 1st November 2020. The parties had entered into a previous private residential tenancy which had commenced on 15th May 2020.

5.6 The Respondents vacated the Property on 12th February 2024 and returned the keys to the Landlord on 21st February 2024.

5.7 The rent due in terms of the tenancy was £550 per month, payable monthly in advance.

5.8 The Respondents had paid a deposit amounting to £550.

5.9 The Landlord's agent had sent notice of increase of rent to the Respondents by email on 6th January 2024. The notice increased the rent to £585 per month.

5.10 The Respondents had not made any rent payments since 16th December 2022.

5.11 There had been a leak from the bath/ and shower in the Property which had damaged the kitchen ceiling.

5.12 The Respondents had not used the bath/ shower in the Property between 12th February 2023 and 26th May 2023.

6. Agreement

The parties reached agreement that the amount of outstanding rent due by the Respondents to the Applicant was £3500. The parties agreed that the deposit of £550 would be repaid to the Landlord and the remaining balance would be paid at the rate of £60 per month with the first payment commencing on 1st April 2024.

7. Decision

The Tribunal determined that the outstanding rent due by the Respondent amounted to £3500 and accordingly they issued an Order for Payment in this sum. They also determined that the Time to Pay Direction application was reasonable and that the sum of £3500, after repayment of the deposit to the applicant, should be repaid at the rate of £60 per month commencing on or before 1st April 2024.

8. 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.

Jacqui Taylor

..... Legal Member

13th March 2024