



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/23/2358

Re: Property at 1/2 5 Robertson Street, Greenock, PA16 8DB (“the Property”)

Parties:

Mr Joseph White, Woodlands, West Glen Road, Kilmacolm, PA13 4PW (“the Applicant”)

Mr Johnathan Carruthers, 2/3 50 Belville Street, GREENOCK, PA15 4UR (“the Respondent”)

Tribunal Members:

Nicola Weir (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 by the Respondent in the sum of £4,428.11 should be made in favour of the Applicant.

Background

1. By application received on 17 July 2023, the Applicant applied to the Tribunal for an order for payment of rent arrears amounting to £4,428.11 against the Respondent. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement and a rent statement in respect of the rent arrears.
2. Following initial procedure, on 12 December 2023, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations, together with a Direction requesting that some further information be lodged by the Applicant. The further information requested was submitted on behalf of the Applicant by email on 5 January 2024.

3. Notification of the application and details of the Case Management Discussion (“CMD”) fixed for 25 March 2024 was served on the Respondent by way of Sheriff Officer on 12 February 2024. In terms of said notification, the Respondent was given until 1 March 2024 to lodge written representations. No representations were lodged by or on behalf of the Respondent prior to the CMD.

Case Management Discussion

4. The Case Management Discussion (“CMD”) took place by telephone conference call on 25 March 2024 at 10am, attended by Miss Samantha Hughes of Kilglen Property Management on behalf of the Applicant. The Tribunal delayed the commencement of the CMD for around 5 minutes to give the Respondent an opportunity to join late but he did not do so.
5. After introductions and introductory remarks by the Legal Member, there was discussion regarding the background to the payment application and the fact that it did not appear to be opposed by the Respondent. Miss Hughes confirmed that the sum sought remains at £4,428.11 in terms of the original application and that this was in respect of rent arrears accrued during the tenancy, which ended on 26 June 2023 when the Respondent moved out. Miss Hughes was asked about the slight discrepancy in the weekly rental figure shown in the tenancy agreement (£138.46) and the rent statement (£138.08) and explained that this was due to them switching to a new online system, “ALTO”. She is happy that the total figure claimed is, however, correct as they carried out an adjustment when this was realised. Miss Hughes confirmed that they did have some communication with the Respondent regarding the arrears. He told that that he was struggling to afford the tenancy and was moving out into social housing. Miss Hughes thinks that he had lost his employment and was receiving Housing Benefit but this was not paid to them. It was proposed that a payment plan be set up to clear the rent arrears but this did not happen and the Respondent did not continue to communicate with them after he moved out. Miss Hughes confirmed that they have not heard from him since and that no further payments were received into the rent account, either directly from the Respondent or in respect of Housing Benefit or similar. There was no deposit taken in this tenancy, as per the terms of the tenancy agreement, so no deposit to be put towards the rent arrears. The sum of £4,428.11 therefore remains outstanding.
6. The Legal Member, having considered the application, confirmed that the payment order would be granted today in the sum of £4,428.11. There was brief discussion regarding the process to follow and the appeal period. Miss Hughes was thanked for her attendance.

Findings in Fact

1. The Applicant is the landlord of the Property, which is owned by Kilglen Holdings Ltd, a limited company of which the Applicant is a Director.
2. The Respondent was the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 26 March 2022.
3. The rent in terms of the tenancy was £138.46 per week.
4. There was no tenancy deposit held in respect of the Property.
5. The tenancy terminated on 19 June 2023 when the Respondent vacated the Property.
6. Rent payments were erratic during the tenancy and amounted to £4,428.11 when the tenancy ended.
7. No payments towards the rent arrears have been received from or on behalf of the Respondent since the tenancy ended.
8. The Tribunal application was lodged after the tenancy had ended on 17 July 2023.
9. The Respondent was called upon to make payment in respect of the rent and arrears but has failed to do so.
10. The sum of £4,428.11 is due and resting owing by the Respondent to the Applicant in respect of rent arrears.
11. The Respondent has lodged no written representations in respect of the Tribunal application nor attended the CMD.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, and the oral information given at the CMD on behalf of the Applicant by Miss Hughes. The Respondent did not lodge any written representations nor attend the CMD, having been properly and timeously notified of same.
2. The Tribunal considered that there was no material before it to contradict the information from the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Tribunal had regard to the terms of the tenancy agreement and the rent statement lodged and was satisfied that rent arrears in the sum of £4,428.11 had accrued during the period of the tenancy and that this sum was due and resting owing in respect of unpaid rent due to the Applicant in terms of this application.

3. The Tribunal concluded that, in the circumstances, an order in the sum sought could properly be made at the CMD today.

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.

N. Weir

Legal Member/Chair

25 March 2024
Date