



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/23/1749

Re: Property at 1 Flat 4 Paterson Place, Haddington, EH41 3DU (“the Property”)

Parties:

Ellerton Properties, 4 Vetch Park, Haddington, EH41 3LH (“the Applicant”)

Miss Rachel McKinley, 1 Flat 4, Paterson Place, Haddington, EH41 3DU (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member) and Janine Green (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of ONE THOUSAND EIGHT HUNDRED AND SIX POUNDS AND NINETY FIVE PENCE (£1806.95) STERLING against the Respondent in favour of the Applicant be granted.

Background

1. An application was lodged dated 30 May 2023 in terms of Rule 111 of the Chamber Rules being an application for civil proceedings in relation to a private residential tenancy.
2. Along with the application form, the Applicant’s agents purported to lodge the following documents:
 - Copy of the tenancy agreement
 - Copy of the rent ledger
3. The Tribunal wrote to the Applicant’s agents on 31 May 2023 advising that the rent ledger was not in fact attached to the application email and asked for a copy.

4. The Applicant's agents replied by email the same day with a copy of the rent ledger.
5. The application was accepted and assigned to a case management discussion on 13 October 2023.
6. Notice of the application and details of the case management discussion was served on the Respondent.
7. The Respondent was asked to provide written representations by 26 September 2023. No written representations were received.
8. On 10 October 2023 the Applicant's agents requested a postponement of the case management discussion as the members of staff involved were not available. The postponement was granted by the Tribunal.
9. The case management discussion was rescheduled for 12 January 2024.
10. Details of the case management discussion were served on the respondent by recorded delivery on 22 November 2023.

The Case Management Discussion

11. The case management discussion took place on 12 January 2024 by teleconference. Charlotte Gray, Director, Professional Property Letting, attended on behalf of the Applicant and the Respondent attended on her own behalf. It should be noted that the Respondent was in the process of losing her voice and it was, therefore, difficult sometimes to understand her position on matters.
12. The Applicant's position was that they had lodged this application on 30 May 2023, one day before the June 2023 rent payment was due. Arrears now stood at the sum of £2754.40. Since the application was lodged there had been a rent increase of 3%. Ms Gray conceded that she had not sent any documents to the Tribunal explaining the rent increase, the date of the increase, intimation of the increase happening or an up-to-date rent statement. Her position was that the current arrears were £10 short of being in arrears of three months.
13. The Respondent's position was that she owed some rent and was going to sort it. She did not agree the figure of £2754.40. She was unable to provide any particular reason why she started falling behind with rent payments in March 2023. She was hoping to pay a bit of extra rent to deal with the arrears. She advised that she had a part-time job and also received Universal Credit. She had to pay a bit towards her rent payments each month.
14. On being asked about the suggestion in the papers that there had been some issues with the Property, the Respondent advised that there had been a leak

in the bathroom and problems with the smoke alarm. These issues had now been resolved.

15. Ms Gray's position was that she felt the maintenance issues were irrelevant to the application and, in any event, the issues had been remedied once they were aware of them. She also said that there had been no attempts by the Respondent to repay the arrears as yet.

16. After the case management discussion, the Tribunal issued a case management discussion note and a notice of direction addressed to the Applicant. The Notice of Direction asked the Applicant for the following information:

- “1. *Copies of any correspondence in relation to the rent increase in October 2023 including, but not restricted to, intimation of the rent increase to the Respondent;*
2. *An up-to-date schedule to show the amount of rent due and the amount of rent paid monthly since the commencement of the tenancy;*”

The Applicant was asked to provide this information by 28 days before the hearing.

17. No information in relation to the rent increase and rent arrears was received before the hearing.

The Hearing

18. The hearing took place on 19 April 2024 by teleconference. Ms Gray was in attendance on behalf of the Applicant. The Applicant's sole director did not attend. The Respondent attended on her own behalf.

19. The Tribunal asked Ms Gray about the Notice of Direction and she advised that she believed that she had provided the information requested. She was asked to resend the information. Ms Gray provided oral submissions that some of the rent arrears had been repaid. The current arrears were in the sum of £1806.95. Normal monthly rent was being paid along with a bit extra here and there. At an adjournment, the Tribunal was able to view the relevant email and attachments.

20. On reconvening, the Respondent confirmed that she hadn't seen the relevant documents. She agreed she had some rent arrears. The Respondent was offered an adjournment until later the same day to view the relevant documents but she declined the offer. The Respondent agreed that she was due £1806.95 in rent arrears.

Findings in Fact

21. The Tribunal made the following findings in fact:

- Parties entered into a Private Residential Tenancy Agreement from 14 June 2022.
- Under the terms of the tenancy agreement rent was payable in the sum of £895 per calendar month.
- There had been a rent increase of 3% in October 2023 to the sum of £921.85 per calendar month.
- The Respondent had fallen into arrears. Some of the arrears had been repaid but the arrears stood at £1806.95.

Reasons for Decision

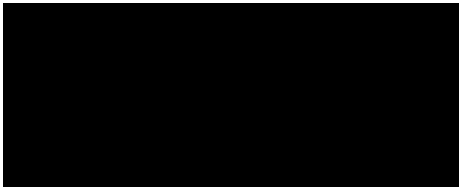
22. The Tribunal took into account the written evidence and submissions before it along with the oral submissions of parties. Parties were in agreement that rent arrears had accrued in the sum sought by way of payment order.

Decision

23. To grant a payment order in the sum of £1806.95 in respect of rent arrears against the Respondent 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.



22 April 2024

Legal Member/Chair

Date