



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/23/2162

Re: Property at 37 Fettercairn Drive, Dundee, DD5 2PZ (“the Property”)

Parties:

Mr Steve Moyes, 14 Glenfeshie Street, Broughty Ferry, Dundee, DD5 3XE (“the Applicant”)

Mr Richard Davidson, 70 Panmure Street, Barnhill, Monifieth, DD5 4EH (“the Respondent”)

Tribunal Members:

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 the sum of £2450 in favour of the Applicant

Background

1. A Rule 111 application for an order for payment was made by application received in the period between 28th June and 27th October 2023. The Applicant representative lodged a copy of a private residential tenancy agreement that commenced on 15th March 2018 and ended on 14th June 2023, together with a rent statement, rent increase notice and copy notice to leave. The Applicant was seeking a payment order in the sum of £3000 in respect of unpaid rent.
2. The application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officer on 22nd December 2023. During their enquiries, Sheriff Officers were informed that the Respondent was out of the country until February 2024.
3. A Case Management Discussion (“CMD”) took place by telephone conference on 13th February 2024. The Applicant was represented by Mr Greg Gardiner. The Respondent was not in attendance. The Tribunal considered the terms of Rule 29. The Tribunal was not satisfied that the requirements of Rule 17(2) had

been satisfied. The Tribunal determined it was not appropriate to proceed with the application in the absence of the Respondent, given the information that he may be out of the country and may be unaware of the application and CMD. Mr Gardiner confirmed the Respondent tends to spend time out of the country each winter. The Tribunal decided to continue the CMD to another CMD.

4. Notification of a further CMD was made upon the Respondent by Recorded Delivery on 20th February 2024. The Respondent signed for the notification on 24th February 2024.

The Case Management Discussion

5. A CMD took place by telephone conference on 26th March 2024. The Applicant was represented by Mr Greg Gardiner. The Respondent was not in attendance. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied. The Tribunal determined it was appropriate to proceed with the application in the absence of the Respondent,
6. Mr Gardiner moved for an order for payment in the sum of £2450, as the tenancy deposit sum of £550 had been returned to the Applicant and this had been deducted from the sum initially sought.

Findings in Fact and Law

7.
 - (i) Parties entered into a private residential tenancy agreement that commenced on 15th March 2018 with monthly rent due in the sum of £450.
 - (ii) The monthly rent was increased to £500 from 15th September 2022.
 - (iii) The tenancy ended on 14th June 2023.
 - (iv) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - (v) The Applicant is entitled to recover rent lawfully due.

Reasons for the decision

7. Rent lawfully due in terms of the tenancy agreement between the parties has not been paid by the Respondent. The Applicant is entitled to recover rent lawfully due.

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.

- _____ **26th March 2024**
Legal Member/Chair **Date**