



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/23/3110

Re: Property at 25 Bomar Avenue, Bo'ness, Edinburgh, EH51 9PP (“the Property”)

Parties:

Ms Kristina Medovcikova, 26 Grassmere, Cotgrave, Nottingham, NG12 3LZ (“the Applicant”)

Mr Matas Raulickis, Mr Edvinas Raulickis, UNKOWN, UNKNOWN; 33 Deanfield Crescent, Bo'ness, Edinburgh, EH51 0EU (“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 £3,651.51 should be made in favour of the Applicant.

Background

1. By application received on 5 September 2023, the Applicant applied to the Tribunal for an order for payment in respect of rent arrears amounting to £3,400 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, including the Applicant trying unsuccessfully to trace a forwarding address for the first-named Respondent, on 29 January 2024, 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.

3. Notification of the application and details of a Case Management Discussion (“CMD”) fixed for 3 May 2024 was served personally on the second-named Respondent by way of Sheriff Officer on 26 March 2024. Service in respect of the first-named Respondent was effected by way of Advertisement on the Tribunal website during the requisite period 25 March 2024 to 3 May 2024. In terms of said notification, the Respondent was given a period within which to lodge written representations. No representations were submitted by or on behalf of the Respondent within the timescale permitted.
4. On 17 April 2024, the Applicant’s representative emailed the Tribunal, requesting to amend the sum claimed by increasing it to £3,651.51, being the amount owing when the remaining Respondent vacated the Property on 6 October 2023. An updated rent statement dated 17 April 2024 was also submitted, together with copies of correspondence from the Applicant’s representative sent to the second-named Respondent at his forwarding address.

Case Management Discussion

5. The Case Management Discussion (“CMD”) took place by telephone conference call on 3 May 2024 at 10am, attended only by the Applicant’s representative, Mrs Anne Johnstone, Managing Director, of Northwood Central Letting Agents. The Tribunal delayed the commencement of the CMD for around 5 minutes to give the Respondent an opportunity to join late but neither of them did so.
6. After introductions and introductory remarks by the Legal Member, there was discussion regarding the background to the payment application and the fact that no representations had been lodged by, or on behalf, of either Respondent and nor had they attended the CMD. Mrs Johnstone confirmed that she has not had any recent contact from the second-named Respondent whom she has written to recently at his new address.
7. The background is that the Respondents are brothers who entered into this joint tenancy. Mrs Johnstone advised that Northwood only took over management of this tenancy in 2022, by which time, the first-named Respondent had already moved out and gone back to live abroad, they think in Lithuania. The rent account was already in arrears and they tried to engage with the second-named Respondent to get a payment plan in place. She and another Director of Northwood eventually managed to get access and visited the second-named Respondent at the Property. He was, and is understood still to be, working in a local factory. He said he would enter into a payment plan and pay extra sums towards the rent arrears but he did not then do this. He moved out of the Property on 6 October 2023 and provided them with his forwarding address where he is understood still to be staying. This was the address he had lived at prior to this tenancy and is understood to be a friend’s house. Reference was made to the updated rent statement lodged which shows the amount standing as at 6 October 2023 was £3.651.51, the increased sum now sought. Mrs

Johnstone confirmed that no further payments have been made towards the rent or arrears meantime and that, although they were able to recover the £425 tenancy deposit from the tenancy deposit scheme, there were substantial repairs and other costs incurred by the Applicant, on the second-named Respondent vacating. She indicated that the Applicant had had to spend around £5,000 to bring the Property back into a condition whereby it could be re-let. Accordingly, there was no balance left over from the deposit for setting against the rent arrears.

8. The Legal Member, having considered the application, confirmed that the payment order sought would be granted today in the sum of £3,651.51. There was brief discussion regarding the process to follow and Mrs Johnstone was thanked for her attendance.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent was the joint tenant of the Property by virtue of a Private Residential Tenancy which commenced on 19 October 2018.
3. The rent in terms of the tenancy is £425 per calendar month.
4. The first-named Respondent moved out of the Property some time ago but the Applicant only became aware of this during 2023.
5. The tenancy remains in joint names.
6. The second-named Respondent vacated the Property on or around 6 October 2023.
7. The rent account was already in arrears when the Applicant's current letting agents took over management of the Property during 2022 as the second-named Respondent was only making partial payments towards the monthly rent.
8. The last payment towards rent was received on 28 July 2023, in the sum of £212.50.
9. The Tribunal application was lodged on 5 September 2023 when the rent arrears owing amounted to £3,400.
10. The rent arrears had increased to £3,651.51 by 6 October 2023 when the second-named Respondent vacated the Property.
11. The Respondent has been repeatedly called upon to make payment in respect of the rent arrears but has failed to do so.

12. The sum of £3,651.51 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy.
13. The Respondent has not lodged written representations opposing the claim and did not attend 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 by the Applicant's representative. The Respondent did not 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 statements lodged and was satisfied that rent arrears in the sum of £3,651.51 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, as amended. It was noted by the Tribunal that the amendment of the application to increase the sum claimed had been lodged and intimated timeously to the Respondent prior to the CMD, in accordance with Rule 14A of the Tribunal Procedure Regulations.
3. The Tribunal concluded that, in the circumstances, an order in the sum originally sought of £3,651.51 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

3 May 2024
Date