



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/23/4173

Re: Property at 3F1 13 Park Avenue, Dundee, DD4 6PN (“the Property”)

Parties:

Mr Paul Andrew Gardner, 31 Spring Avenue, Egham, Surrey, TW20 9PJ (“the Applicant”)

Mr Matthew Sharpe, previously residing at 3F1 13 Park Avenue, Dundee, DD4 6PN and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of NINE HUNDRED AND FOURTEEN POUNDS AND TWENTY FIVE PENCE (£914.25) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an action for recovery of rent arrears raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a Private Residential Tenancy Agreement between the parties dated 23 February 2021 but commencing on 22 February 2021, a rent statement to 15 June 2022 and a trace report from

Alex M Adamson which showed the Respondent's whereabouts were unknown.

3. On 31 January 2024, the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 5 April 2024 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 26 April 2024. The Tribunal advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 14 May 2024. This paperwork was unable to be served on the Respondent as his whereabouts were unknown. The application was thereafter served on the Respondent by advertisement in terms of Rule 6A of the Rules. A copy of the Execution of Service was received by the Tribunal administration and placed before the Tribunal.
5. The Respondent did not lodge any written representations by 26 April 2024.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 14 May 2024 by way of teleconference. Mrs MacKenzie from Sandstone UK Property Management Solutions Ltd appeared for the Applicant. There was no appearance by or on behalf of the Respondent despite the CMD starting 10 minutes late to allow him plenty of time to join the call. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 23 February 2021, the rent statement to 15 June 2022 and a trace report from Alex M Adamson. The Tribunal considered these documents.
8. Mrs MacKenzie explained to the Tribunal that when the tenancy had ended the Respondent had left rent arrears of £914.25 after the deduction of the tenancy deposit. There were also cleaning charges and damages to the Property amounting to £611.66. The Tribunal explained that there was no evidence before it that there were damages and cleaning charges and explained that if the Applicant wanted to pursue these he would need to lodge another application. In the circumstances, Mrs MacKenzie moved the Tribunal to grant an Order for the rent arrears.

Reasons for Decision

9. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent statement. Further the Tribunal considered the submissions made by Mrs MacKenzie.

10. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen and stood at the end of the tenancy. The Applicant had produced evidence of non-payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Mrs MacKenzie's submissions that an order for payment in favour of the Applicant be granted.

Decision

11. The Tribunal granted an order for payment of £914.25 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.

S. Evans

14 May 2024

Legal Member

Date