



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/24/1467

Re: Property at 27 Kersland Foot, Girdle Toll, Irvine, KA11 1BP (“the Property”)

Parties:

Mr Bryan Hendry, 13 Christie Road, Currie, Edinburgh, EH14 5AD (“the Applicant”)

Mr Christopher Black, 44 Old Caley, Irvine, KA12 0TU (“the Respondent”)

Tribunal Members:

Andrew Cowan (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum of £5409.71 was lawfully due by the Respondent and granted an order for payment of that sum by the Respondent to the Applicant, with interest thereon at the rate of 8%, running from the date of this decision.

Background

1. By an application dated 29th March 2024 (“the Application”), the Applicant sought an order for payment of £5409.71 from the Respondent in respect of rent arrears, together with interest thereon at the rate of 8% per annum.
2. A copy of the Application, along with a letter from the Tribunal giving details of a proposed Case Management Discussion, was served upon the Respondent by Sheriff Officers on 14th May 2024.

3. A Case Management Discussion (“CMD”) took place by teleconference on 17th June 2024. The Applicant joined the CMD call and gave evidence to the Tribunal.
4. The Respondent did not join the CMD call. The Respondent has not made any written representations to the Tribunal in advance of the CMD. The Respondent has been intimated with the date and time of the CMD by Sheriff Officers. The Tribunal was satisfied that the Respondent had been given reasonable notice of the date, time and place of the CMD and that the requirements of rule 24(1) of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”) had been duly complied with. In the circumstances the Tribunal proceeded with the application in accordance with rule 29 of those Procedure Rules.
5. At the CMD the Tribunal was able to consider various productions which had been submitted by the Applicant at the time of his Application to the Tribunal. Those productions included
 - a. The tenancy agreement between the parties. The tenancy agreement was a Private Residential Tenancy Agreement in relation to the Property. The tenancy between the parties had commenced 20th October 2020. The monthly rent due in terms of the tenancy agreement between the parties was £475.00.
 - b. A Statement of rent and arrears had been lodged with the Application showing total rent arrears due by the Respondent as at 3rd November 2023 in the sum of £4184.34.
 - c. A check out inventory and report prepared by Messrs Hovepark, which had been prepared on 3rd November 2023 and which detailed several defects and repairs which were required at the Property.
 - d. Copy correspondence between the parties in which the Applicant had set out to the Respondent his claim for payment of £4184.34 by way of rent arrears due by the Respondent. The Applicant had also intimated to the Respondent a further claim for £1225.37 in respect of various costs which the Applicant had incurred in relation to the termination of the tenancy, together with the cost of works which were required to repair or rectify damage which had been caused to the Property by the Respondent during his period of occupancy.
 - e. Various receipts and invoices in relation to costs incurred by the Applicant necessary to repair the Property.

Further Information:

6. The Applicant exhibited to the Tribunal a copy of an order for the Respondent’s eviction which had been granted by the First-Tier tribunal on 29th August 2023. That order confirmed that the earliest date that it could be executed was 29th September 2024. The Applicant confirmed at the CMD that he had required to engage the services of Sheriff Officers to serve a charge against the Respondent and to thereafter enforce the eviction order. The Eviction order was

enforced by Sherriff Officers on 3rd November 2023. The Tenancy Agreement between the parties was accordingly lawfully terminated on 3rd November 2023.

7. The Applicant had lodged a rent statement with the Application. That statement confirmed that, by 3rd November 2023 (being the date of termination of the tenancy between the parties), the Respondent had accrued rent arrears due in terms of the tenancy agreement between the parties in the sum of £4184.34.
8. The Applicant also sought payment from the Respondent for sums incurred by the Applicant in relation to the enforcement of the order for eviction granted against the Respondent. The Applicant had lodged with the application invoices from Messrs. Stirling Park in connection with their services for serving a charge for removing against the Respondent and for thereafter arranging and executing the ejection of the Respondent from the Property. The total cost incurred by the Applicant in connection with these Sheriff Officers services was £288.69.
9. The Applicant also sought payment from the Respondent for sums incurred by the Applicant in connection with the cost of works which were required to repair or rectify damage which had been caused to the Property by the Respondent during his period of occupancy. The Applicant claims that the Respondent is liable for the cost of these repairs as they were attributable to the Tenant's fault or negligence.

In particular the Applicant claims that:

- a. The Respondent had removed the smoke alarms which had been in the Property at the date he took occupancy of the Property. The Applicant was required to purchase new smoke alarms for the Property and to have those alarms professionally installed. The Applicant had lodged with the application invoices in connection with cost of purchasing the new alarms and the installation in the sum of £292.99.
- b. The Respondent had failed to take reasonable care of the Property and to ensure that the Property was kept clean during the duration of the tenancy. The Applicant was required to have the Property deep cleaned and to have the carpets cleaned in the Property. The Applicant had lodged with the application invoices in connection with the of cost cleaning the property (including the carpets) in the sum of £225.98.
- c. The Applicant was required to paint certain parts of the Property because of the Respondents failure to take reasonable care of the Property. The Applicant had lodged with the application invoices in connection with the purchase of paint in the sum of £115.73.
- d. The Applicant was required to purchase new keys for the Property as the Respondent failed to return all keys for the Property. The Applicant had lodged with the application invoices in connection with cost of purchasing new keys for the Property in the sum of £31.50.
- e. The Applicant was required to instruct a joiner to repair a broken lock on the kitchen window of the property which had been damaged by the Respondent during his occupancy of the Property. The Applicant had

lodged with the application an invoice in connection with cost of engaging a joiner to carry out this work in the sum of £200.

- f. The Applicant was required to purchase a new kitchen roller blind for the Property which had been damaged by the Respondent during his period of occupancy. The Applicant had lodged with the application a receipt for the purchase of a new roller blind in the sum of £48.49
 - g. The Applicant was required to purchase weedkiller as the Respondent had failed to maintain the garden at the Property. The Applicant had lodged with the application invoices in connection with cost of purchasing weedkiller in the sum of £21.99.
10. The total sum sought by the Applicant from the Respondent for sums incurred by the Applicant in connection with the cost of works which were required to repair or rectify damage which had been caused to the Property by the Respondent during his period of occupancy is £936.68.
11. Under rule 17(4) of the Procedure Rules the First-Tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision. The Respondent did not enter appearance at the CMD. The Applicant had lodged supporting documentation in respect of each part of his application for payment. The Tribunal were satisfied that the sums claimed by the Applicant were due by the Respondent.

Findings in fact

12. The Applicant let the Property to the Respondent in terms of a written tenancy agreement which commenced on 20th October 2020. The monthly rent due in terms of the tenancy agreement between the parties was £475.00.
13. The tenancy agreement between the parties was lawfully terminated at 3rd November 2023.
14. As at the date of termination of the tenancy between the parties the Respondent had accrued arrears of rent under the terms of the tenancy agreement in the sum of £4184.34.
15. The First-tier Tribunal granted an order for the Respondent's eviction on 29th August 2023. The Respondent failed to vacate the Property and the Applicant was required to instruct Sheriff Officers to serve a charge against the Respondent and to enforce his ejection. The Applicant incurred charges to Sheriff Officers in connection with these services in the sum of £288.69.
16. In terms of paragraph 17 of the tenancy agreement between the parties the Respondent had a duty to take reasonable care of the Property and to ensure the Property and its fixtures and fittings were kept clean during the tenancy.

17. In terms of paragraph 18 of the tenancy agreement between the parties the Respondent is liable for the cost of repairs where the need for them is attributable to the Respondent's fault or negligence
18. The Respondent failed to keep the Property clean during the Tenancy. In terms of the tenancy agreement between the Parties the Respondent had a duty not to interfere with the smoke detectors at the Property. The Respondent removed the smoke detectors during his period of occupancy and did not replace these. The Applicant incurred costs in cleaning and repairing the Property, and in replacing the smoke detectors at the Property. The costs incurred by the Applicant in cleaning and repairing the Property, and in replacing the smoke detectors, following the Respondent's period of occupancy is £936.68. The costs incurred by the Landlord arose due to the fault or negligence of the Respondent.
19. As at the date of the CMD the sum of £5409.71 remains due and owing by the Respondent to the Applicant in respect of:
1. Arrears of rent incurred by the Respondent in the sum of £4184.34.
 2. Sheriff Officers Charges in the sum of £288.69 and
 3. Costs or repairs to the Property in the sum of £936.68
20. The total sum for which the Respondent is liable to the Applicant is £5409.71. The Applicant is entitled to interest on the sum due by the Respondent at the rate of 8%, running from the date of this decision until payment.

Decision

21. The Tribunal accordingly granted an order for payment by the Respondent to the Applicant in the sum of £5409.71, with Interest thereon at the rate of 8%, running from the date of this decision until payment

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.

Andrew Cowan

17th June 2024

Legal Member/Chair

Date