



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/24/0310

Re: Property at Flat 10, 2 Saltire Square, Edinburgh, EH5 1PR (“the Property”)

Parties:

Ms Elizabeth Jane McRae, 61/44 Inverleith Row, Edinburgh, EH3 5PX (“the Applicant”)

Mr Akran Shatnawi, Flat 10, 2 Saltire Square, Edinburgh, EH5 1PR (“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 £2,535 should be made in favour of the Applicant.

Background

1. By application received on 19 January 2024, the Applicant applied to the Tribunal for an order for payment in respect of outstanding utility bills and repair costs incurred during the tenancy which it was claimed the Respondent was liable for. The outstanding utility bills amounted to £2,350.80 and the repairs amounted to £184.20, totalling £2,535. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement, a copy of a statement of account, copies of utility bills, an invoice in respect of repairs to the front door of the Property and correspondence between the Applicant’s letting agents and the Respondent.

2. Following initial procedure, on 26 February 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 the Case Management Discussion ("CMD") fixed for 23 May 2024 was served on the Respondent by way of Sheriff Officer on 17 April 2024. In terms of said notification, the Respondent was given until 7 May 2024 to lodge written representations. No representations were lodged by or on behalf of the Respondent prior to the CMD.

Case Management Discussion

4. The Case Management Discussion ("CMD") took place by telephone conference call on 23 May 2024 at 2pm, attended by Ms Vacca, Portfolio Manager, and Ms Solomon, both of Umega Lettings & Estate Agents, on behalf of the Applicant. The Tribunal delayed the commencement of the CMD for around 5 minutes to give the Respondent an opportunity to join late but he did not do so.
5. 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 the Respondent. Ms Vacca confirmed that they have tried to contact the Respondent by correspondence, email and telephone but have had no communication from him. He is believed to still be residing at the tenancy but has not made any payments towards the outstanding bills since the Tribunal application was made, so the figure claimed is still the same. Ms Vacca confirmed that there have been further bills received since the application was made so the figure currently owing has, in fact, increased. The Respondent also owes rent arrears in the sum of around £1,000 which is being dealt with separately.
6. Ms Vacca explained that the front door repair had been necessary because when she was visiting the Property some months ago in connection with the outstanding bills, she had noticed that the door was damaged and had been locked with an external padlock. She contacted the Respondent about this and he had confirmed that the police had forced entry to the Property the previous day looking for him. Ms Vacca confirmed that they had to repair the door to make it secure. They did not charge the Respondent for the associated cosmetic repairs, just for the repairs to the door itself and the lock. Reference was made to the invoice produced in respect of this repair in the sum of £184.20.
7. As to the utility bills for heating and hot water, Ms Vacca explained that the Respondent had not paid these throughout his tenancy, other than making a one-off payment towards the amount outstanding of £500. She referred to clause 27 of the tenancy agreement which states that the Respondent is responsible for payment of the utilities used by him during the tenancy. Reference was also made to all the copy bills produced in respect of the monthly utility costs incurred between the commencement of the tenancy in

2019 and January 2024 when the Tribunal application was lodged. It was noted by the Legal Member that the bills are addressed to a third party, a Mr Smith, although they relate to this Property address. Ms Vacca explained that Mr Smith is the husband of the Applicant and that the reason the bills are addressed to him is that the property factor for the building who coordinates the utilities insist that the bills are addressed to owners rather than tenants. Reference was made to the correspondence lodged with the Tribunal from the property factor to the Applicant regarding the outstanding charges which the Applicant had then required to settle, in order to avoid penalty charges being added. Ms Vacca referred to her subsequent correspondence with the Respondent dated 6 October 2023 which confirmed that the amount owing by him at that time was £1,841.36. She confirmed that this was the balance after the Respondent had made the payment of £500 mentioned previously. Since then, the Respondent has not made any further payments towards the utility costs and further monthly bills have been received. When the Tribunal application was lodged in January 2024, the balance owing was £2,350.80. Ms Vacca stated that they had tried repeatedly to get the Respondent to agree to a payment plan to pay off the outstanding utility costs but this had been unsuccessful.

8. The Legal Member, having considered the application, confirmed that a payment order would be granted today in the sum sought of £2,535. There was brief discussion regarding the process to follow and Ms Vacca and Ms Solomon were thanked for their attendance.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 19 June 2019 and is ongoing.
3. In terms of Clause 27 of the tenancy agreement, the Respondent is responsible for payment of the utilities used by him during the tenancy.
4. The Respondent has not paid the heating and hot water utility charges incurred by him throughout the tenancy, other than a single payment of £500 on or around 26 June 2023.
5. This Tribunal application was lodged on 19 January 2024, when the balance owing by the Respondent in respect of heating and hot water utility charges amounted to £2,350.80.
6. In terms of the tenancy agreement, the Respondent is liable for the repair costs of damage to the Property caused by him or for which he is responsible.
7. The Respondent was responsible for the damage caused to the front door and lock of the Property in or around September 2023.

8. The costs incurred by the Applicant in rectifying the damage to the front door and lock to ensure that it was secure was £184.20, for which the Respondent is liable.
9. The total sum due and resting owing by the Respondent to the Applicant in respect of utility and repair costs in terms of this application is £2,535.
10. The Respondent has been called upon to make payment in respect of the sums due but has failed to do so.
11. The Respondent has lodged no written representations in respect of this Tribunal application nor attended 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 on behalf of the Applicant by Ms Vacca.
2. The Respondent did not lodge any written representations nor attend the CMD, having been properly and timeously notified of same.
3. 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 statement of account, copy utility bills, invoice in respect of the door repairs and copy correspondence lodged on behalf of the Applicant and referred to above and had asked Ms Vacca a number of questions in respect of the documentation, dates involved, etc. The Tribunal was satisfied that the sum of £2,350.80 was owing by the Respondent in respect of utility charges incurred by him during the tenancy and that the sum of £184.20 was owing in respect of repairs for which he was responsible. Accordingly, the Tribunal was satisfied that the total sum of £2,535 was due and resting owing by the Respondent to the Applicant in terms of this application.
4. The Tribunal concluded that, in the circumstances, an order in the sum sought 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

23 May 2024
Date