



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/23/2653

Re: 7 Yarrow Court, Penicuik, Midlothian, EH26 8HD ("the Property")

Parties:

Ms Shapla Khan residing at 63 Darwin Drive, Cambridge, Cambridgeshire, CB4 3HQ ("the Applicant")

Carolyn Gourlay, Rentlocally, 109/1 Swanston Road, Edinburgh, EH10 7DS (The Applicant's Representative')

James Kelly ("the First Respondent")

Aieesha MacVicar formerly residing at 7 Yarrow Court, Penicuik, Midlothian, EH26 8HD ("the Second Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

Background

1. The Applicant submitted an application to the Tribunal dated 8th August 2023 for payment of arrears of rent in the sum of £10,123.23 being the sum outstanding as at 8th August 2023.

2. Documents originally lodged with the Tribunal.

Documents originally lodged with the Tribunal by the Applicant were:

2.1 A copy of the Tenancy Agreement.

2.2 Rent Statement for the period 3rd November 2022 to 4th August 2023 showing an outstanding balance of £10,123.23.

3.First Case Management Discussion.

This case called for a Case Management Discussion (CMD) at 14.00 on 19th January 2024.

The Applicant's Representative attended.

The Respondents did not attend and were not represented.

The Respondents had not provided any written representations.

The Applicant's Representative advised the Tribunal that Aieesha MacVicar had vacated the Property on 2nd October 2023 and James Kelly had vacated the Property before that date and she did not have current addresses for them. She explained that the current arrears amounted to £10,820 but this did not include the deposit which had still to be returned to the Applicant. She also advised that the rent account started on 3rd November 2022 as this was the date they took over the management of the lease.

The letter from the Tribunal to the Respondents with details of the CMD had been delivered to the Property by Dale Barrett, Sheriff Officer on 24th November 2023. The Tribunal were not satisfied that the requirements of Tribunal Rule 29 had been complied with.

4. Amendment to the Application.

The Appellant's Representative sent the Tribunal an email dated 29th January 2024 advising that the current arrears amount to £10,070. A copy of the up to date rent ledger was provided together with a copy of the deposit release request details confirming that the deposit of £750 would be released to the Landlord on 29th January 2024.

A copy of the application and amendment was sent to the First and Second Respondents by the Tribunal administration on 12th April 2024.

5. Second Case Management Discussion

This case called for a Case Management Discussion (CMD) at 10.00am on 8th May 2024.

The Applicant's Representative attended.

The Respondents did not attend and were not represented.

The First Respondent had been served with details of the Second CMD by advertisement on the website of the Housing and Property Chamber during the period 12th April 2024 to 8th May 2024. He had also been sent details by email on 12th April 2024.

The Second Respondent had been served with a letter advising her of the CMD by Ellie McConnachie, Sheriff Officer on 15th April 2024.

The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

Caroline Gourlay advised that Tribunal that the current arrears amounted to £10070. She sought payment of this sum being the outstanding rent due as at the end of the tenancy after repayment of the deposit to the Applicant.

6. Decision

6.1 The Tribunal made the following findings in fact:

6.1.1. The Respondents had been Tenants of the Property in terms of the lease between the parties. The start date of the Tenancy detailed in the lease was 4th June 2020. The tenancy ended on 2nd October 2023.

6.1.2 The lease is a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act').

6.1.3 The Applicant, Ms Shapla Khan, is Landlord of the Property.

6.1.4 The Applicant, Ms Shapla Khan, is heritable proprietor of the Property in terms of Disposition in her favour recorded in the division of the General Register of Sasines for the County of Midlothian on 1st December 2000.

6.1.5 The rent detailed in the tenancy agreement was £750 per calendar month, payable in advance.

6.1.6 Clause 1 of the lease states that the Tenants are jointly and severally liable for all of the obligations under the lease.

6.1.7 The rent arrears as at 2nd October 2023 were £10,820.

6.1.8 The Deposit of £750 was paid to the Applicant.

6.1.9 The outstanding rent due by the Respondents is £10,070.

7. Decision

The Tribunal determined that the outstanding rent due by the Respondents amounts to £10,070 and accordingly they issued an Order for Payment in this sum.

8. 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.

J Taylor

Legal Member

8th May 2024