

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/0253

Re: Property at 19 1F1 Bruntsfield Avenue, Edinburgh, EH10 4EN (“the Property”)

Parties:

Ms Susannah Gerner, 118/3 Thirlestane Road, Edinburgh, EH9 1AS (“the Applicant”)

Mr Farooq Anwar, 322/2 Morningside Road, Edinburgh, EH10 4QJ (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of Five Thousand Five Hundred and Seventy One Pounds and Forty Three Pence only (£5571.43) be granted in favour of the Applicant and against the Respondent.

Background

1.This application for a payment order in terms of Rule 111 of the tribunal rules of procedure was first lodged with the tribunal on 17th January 2024 and accepted by the tribunal on 15th of February 2024. An amended application was lodged when the Respondent vacated the let property and moved to a new address and this application requested the full amount of rent said to be due at the end of the tenancy in February 2024.A case management discussion was set for 31st of July 2024 at 10:00am.

Case Management Discussion

2. The case management discussion was attended by Miss Shannon Stevenson, Solicitor, representing the Applicant who was not present. Miss Stevenson was accompanied by Miss Suzanne Wilson, trainee solicitor who was observing. There was no appearance by or on behalf the Respondent. The tribunal legal member noted that the application, supporting papers, and the date of the case management discussion had been served on the Respondent by sheriff officers putting these papers through the letter box at his new address at 322/2 Morningside Road, Edinburgh on 21st of June 2024. Miss Stevenson asked the tribunal to proceed in the absence of the Respondent. The tribunal legal member was satisfied that the Respondent had received fair notice of the application and the date of the case management discussion, and it was appropriate to proceed in his absence.

3. The tribunal had sight of the application, a paper apart, a tenancy agreement, a series of emails between the parties and a table setting out the rent arrears which had accrued during the tenancy. The tribunal also had sight of documents from sheriff officers who had traced the Respondent to a new address.

4. The parties had entered into a private residential tenancy at the property address with effect from 13th June 2023. The monthly rent payable in terms of the tenancy agreement was £1500 payable in advance.

5. Monthly rent due in terms of the tenancy agreement was not paid by the Respondent in July, October and November of 2023. During the periods when the rent was unpaid the Applicant wrote to the Respondent on a number of occasions regarding the rent arrears. He acknowledged that he was in rent arrears, admitted that he was having difficulty paying the rent and indicated that he wanted to move to more affordable accommodation. It was understood at the start of the tenancy he had been working and was living at the property alone. It was understood that he may have done work for schools and had rendered invoices and was waiting to be paid but was not paid promptly. The Applicant had tried to engage with him on a number of occasions to work out payment plans but he simply did not engage with these plans.

6. The Respondent surrendered the keys and moved out of the property with effect from 9th of February 2024 and the Applicant regards this as the date that the tenancy ended. The final rent was apportioned to cover a period of 20 days for the last partial month of the tenancy, and this too was unpaid. The total sum outstanding by way of rent arrears as of the date of the case management discussion is £5571.43.

7. Miss Stevenson advised that during the tenancy which lasted between seven and eight months, rent payments for three full months had not been paid along with the last rent payment due for the period from 21st January to 9th February 2024 when the tenancy ended. Miss Stevenson advised that the landlord in this application had made 6 attempts to engage with the Respondent and at one stage offered financial support to the Respondent by suggesting that part of the rent arrears could be written off if the Respondent was able to move by an agreed date into more affordable accommodation. The Respondent did not engage with these offers and made no proposals for payment of the rent arrears which were followed through at any stage.

8. Miss Stevenson advised that deposit paid by the Respondent in the sum of £1500 was still held by a tenancy deposit scheme and was not recovered by the landlord as at the date of the case management discussion.

9. Miss Stevenson submitted that given that the Respondent had failed to engage with efforts to work out a payment plan or to support him in a move to more affordable accommodation, and the fact that he had vacated the property, found a new address but had not put forward any form of proposals at that stage or tried to engage with the landlord that it would be reasonable for an order to be granted.

10. The tribunal was satisfied that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

11. The parties entered into a private residential tenancy at the property with effect from 13th June 2023.

12. The monthly rent payable in respect of the tenancy agreement was £1500 per month payable in advance.

13. Rent arrears started to accrue in the tenancy as early as July of 2023.

14. The Respondent missed three monthly payments of rent in July 2023, September and November 2023.

15. When the rent arrears accrued the Applicant engaged with the Respondent by e-mail offering to support him in his search for more affordable accommodation and offered to waive part of the outstanding rent arrears if they were able to reach an agreement regarding his moving out of the property.

16. In the course of these discussions the Respondent admitted that he was responsible for the unpaid rent, was having trouble paying it and wanted to seek more affordable accommodation.

17. At the start of the tenancy it was understood that the Respondent was in employment and may have done work for schools for which he rendered invoices which simply had not been paid in a prompt fashion.

18. The Respondent returned the keys and vacated the property on 9th of February 2024, and this is the date on which the tenancy ended.

19. No rent was paid for the partial month from the 21st of January 2024 to the 9th of February 2024 and rent arrears accrued over this partial month amount to £1071.43

20. The total rent arrears which have accrued in terms of the tenancy agreement are £5571.43.

21. Since he vacated the property the Respondent has not contacted the Applicant regarding the rent arrears nor has he made any attempt to offer proposals for payment of the arrears.

22. The sum of £5571.43 is lawfully due by the Respondent to the Applicant in respect of rent arrears accrued under the tenancy agreement.

Reasons for Decision

23. The Tribunal considered on the basis of the information before it that rent arrears in the sum of £5571.43 were outstanding in terms of the tenancy agreement which came to an end in February 2024. Various attempts have been made to engage with the Respondent to try to come to an agreement regarding the rent arrears, but he did not engage or offer any payment proposals which were adhered to. He has since moved to another address and has not engaged with the Applicant in relation to the rent arrears and it is reasonable to grant an order in these circumstances.

Decision

The Tribunal determined that a payment order in the sum of Five Thousand Five Hundred and Seventy One Pounds and Forty Three Pence only (£5571.43) be granted in favour of the Applicant and against the Respondent.

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.

Valerie Bremner

Legal Member/Chair

31.7.24
Date