



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/24/0902

Re: Property at No 5 Cabin, Boghead, Kintore, Aberdeenshire, AB51 0XD (“the Property”)

Parties:

Mr Kenneth Marshall, Mr Charles Marshall, Chapel Works, Bucksburn, Aberdeen, AB21 9TL (“the Applicant”)

Miss Rachel Lawrie, No 5 Cabin, Boghead, Kintore, Aberdeenshire, AB51 0XD (“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 be granted in favour of the Applicants and against the Respondent in the sum of Six Thousand Two Hundred Pounds Only (£6200.00)

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 23rd February 2024 and accepted by the Tribunal on 18th April 2024. A case management discussion was fixed for 17th July 2024 at 10am.

Case Management Discussion

2. The case management discussion was attended by Mr Charles Marshall on behalf of the Applicants. There was no appearance on or behalf of the Respondent. The Tribunal noted that Sheriff Officers had served the application, supporting papers and

the date and time of the case management discussion on the Respondent by putting these papers through the letterbox at the property. The Tribunal was satisfied that the Respondent had received fair notice of the application and case management discussion and that it could proceed in her absence.

3. The Tribunal had sight of the application, a tenancy agreement between the parties, an authorisation to act, a rent statement and emails between the Applicants and the Tribunal.

4. Mr Marshall advised that the Respondent was still in occupation at the property but that an application for an eviction order had been lodged with the Tribunal.

5. The parties had entered into a tenancy agreement at the property with effect from 1st September 2020. The monthly rent payable was £850 per month, with £950 payable in the first month. Mr Marshall advised that there had been an issue with rent arrears previously during the tenancy and these arrears had been paid by the guarantor in full, but he could no longer trace the guarantor and was seeking payment for these subsequent rent arrears from the Respondent tenant.

6. Mr Marshall was seeking an order for payment for 8 months' rent between July 2023 and February 2024 which had not been paid other than a payment of £600 paid in November 2023. He was also seeking payment for service of a charge against the guarantor. The Tribunal legal member asked Mr Marshall to address the issue of liability for this charge by the Respondent and after discussion he decided to seek the unpaid rent only up to February 2024 which amounted to £6200.

7. Mr Marshall advised that no checks were carried out regarding the Respondent when the tenancy started and he could not say if she was working and could not confirm if she had children. It was believed that she claimed housing benefit during the tenancy. He had approached the DWP to see if he could obtain rent payments directly but had been advised that this could not be done. He was unsure if the Respondent's circumstances had changed but each week an email was sent to her regarding the rent arrears and he indicated that she did not answer the phone. He had earlier in the tenancy tried to work with her, but when he had spoken to her she said she was going to get help but this had never come to anything. He was prepared to be reasonable with tenants but the Respondent had never made contact to explain her situation or make any proposals and only one payment of £600 had been paid in 9 months.

8. The Tribunal considered that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

9. The parties entered into tenancy agreement at the property with effect from 1st September 2020.

10. The tenancy agreement required the Respondent to pay to the Applicants £950 in rent for the first month and then £850 a month for all subsequent months.

11. Rent arrears had accrued previously in the tenancy agreement and these arrears had been paid by the guarantor who can now not be traced by the Applicants.

12. The Respondent has paid no rent since July 2023 other than £600 paid in November 2023 and current rent arrears accrued up to February 2024 are £6200.

13. The Respondent's circumstances are not known but she was believed to be receiving housing benefit at some stage during the tenancy but attempts by the Applicants to have rent paid direct to the Applicants from DWP were not successful.

14. The Respondent is still in occupation at the property and is sent an email each week setting out the rent arrears which are due.

15. Earlier in the tenancy when arrears first accrued the Respondent had said that she was going to seek help to pay the rent but this did not result in payment of any accrued arrears.

16. The Respondent has not made contact with the Applicants to discuss the rent arrears or make any payment proposals regarding the rent arrears.

17. The sum of £6200 is lawfully due by the Respondent to the Applicants in relation to unpaid rent due in terms of the tenancy agreement between the parties.

Reasons for Decision

The Tribunal was satisfied that the rent arrears were due by the Respondent to the Applicants and that it was reasonable to grant an order as all efforts to obtain the sum due have not been successful, the guarantor is untraced and it is reasonable to grant the order.

Decision

The Tribunal granted a payment order in favour of the Applicants and against the Respondent in the sum of Six Thousand Two Hundred Pounds Only (£6200.00).

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

17/7/24

Legal Member/Chair

Date