



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/24/0896

Re: 91 Dalriada Crescent, Motherwell, ML1 3XT (‘the Property’)

Parties:

Ian Kenmuir residing at 59 Bellvue Crescent, Bellshill, ML4 3AY (‘the Applicant’)

Ms Angelina Franchitti, Property Angels Lettings & Management (The Applicant’s Representative’)

Mrs Carolyn Rowlands residing at 91 Dalriada Crescent, Motherwell, ML1 3XT (‘the Respondent’)

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

Tribunal Members: Jacqui Taylor (Legal Member) and Elizabeth Williams (Ordinary Member)

1. Background

1.1 The Applicant submitted an application to the Tribunal dated 22nd February 2024 for payment of arrears of rent in the sum of £2774 being the sum outstanding as at 20th February 2024.

1.2 Documents lodged with the Tribunal were:-

- Short Assured Tenancy Agreement by the Applicant dated 20th February 2023
- A rent statement by Direct Management dated 28th November for the period 20th February 2022 to 20th November 2022 showing arrears of £2074.
- A rent statement by Property Angels for the period 28th November 2023 to 18th January 2024 showing arrears of £2074.
- A rent statement by Property Angels for the period 28th November 2023 to 20th March 2024 showing arrears of £2972.86.
- Copies of Pre action letters sent to the Respondent dated 3rd January 2024.

2. By Notice of Acceptance by, Alan Strain, Convener of the Tribunal, dated 18th April 2024 he intimated that he had decided to refer the application (which application

paperwork comprises documents received on/ between 22nd February 2024 and 20th March 2024) to a Tribunal.

3. Case Management Discussion.

This case called for a conference call Case management Discussion (CMD) at 10.00 on 2024.

Ms Angelina Franchitti, the Applicant's Representative attended the CMD.

The Respondent did not attend and was not represented.

The Respondent had been served with a letter advising her of the CMD by Ellie McConnachie, Sheriff Officer on 18th July 2024. The Tribunal were satisfied that the requirements of Tribunal Rule 29 had been complied with and continued with the CMD.

Ms Franchitti advised that she sought a payment order for the rent arrears amounting to £2774, as detailed in the application. She confirmed that the rent being charged was £350 per month evenalthough the lease states that the rent due is £400 per month.

4. Decision

4.1 The Tribunal made the following findings in fact:

4.1.1 The Applicant is Landlord and heritable proprietor of the Property.

4.1.2 The Respondent is Tenant of the Property in terms of the lease between the parties.

4.1.2 The lease is a Private Residential Tenancy in terms of the Private Housing Tenancies (Scotland) Act 2016 ('The 2016 Act'), evenalthough it is headed short assured tenancy.

4.1.3 The rent stated in the lease is £400 per month but the rent being charged was £350 per month.

4.1.4 The rent arrears due by the Respondent as at 20th February 2024 was £2774.

4.2 The Tribunal determined that the Respondent is due to pay the Applicant the sum of £2774 in respect of outstanding rent as at 20th February 2024 and accordingly they issued an Order for Payment in this sum.

5. 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.

Legal Member:

Date: 19th August 2024



