



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

Chamber Ref: FTS/HPC/EV/23/4153

Property at Rowanhill, Lentrán, Inverness, IV3 8RJ (“the Property”)

Parties:

Mr Michael Blackburn, Unit 304e One Rockwell East Tower, Rockwell Centre, Makati City, Metro Manila, 1200, Philippines (“the Applicant”)

Mr Andrew Kieltyka, Rowanhill, Lentrán, Inverness, IV3 8RJ (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment for the sum of £7738.02 should be granted against the Respondent in favour of the Applicant.

Background

1. The Applicant seeks an order for payment in relation to unpaid rent. . A copy of the application was served on the Respondent and the joint tenant, and the parties were advised that a CMD would take place on 21 March 2024 at 2pm. Prior to the CMD the Applicant lodged submissions and documents.
2. The CMD took place on 21 March 2024. The Applicant was represented by Mrs Cochrane. The First Respondent participated. The joint tenant (who was the second Respondent) did not participate and was not represented.

Summary of Discussion at CMD on 21 March 2024

3. The Tribunal noted that the documents lodged with the application included a letter from Walker Love, Sheriff Officers, in relation to service of a Notice to leave. Although they served the Notice at the property address in relation to

both Respondents, the letter states that they were told by Mr Kieltyka that Mrs Kieltyka has not resided at the property for three years, that she was in hospital following a stroke and that he did not intend to give her the notice. However, the Tribunal had only served the application at the property address because the application form indicated that both the Respondent and the joint tenant were resident there. Mr Kieltyka said that he has an address for the joint Respondent. She moved out of the property three years ago and he notified the letting agent at the time. He stated that he has been responsible for the rent and the tenancy since that date. Mrs Kieltyka was in hospital last year for several months. She now has her own accommodation although he was not willing to provide the address, as he did not want the application to be served on her. The parties were advised that the Applicant would be given 14 days to obtain an address and that Mr Kieltyka would have the same period to decide if he was willing to provide her address. If obtained, the application would be served at that address. Otherwise, it would be served by advertisement on the Tribunal website and a further CMD will be arranged.

4. Mr Kieltyka said that he accepts the rent arrears are due. He said that his circumstances changed last year when he was made redundant. He has obtained advice from the CAB and is in receipt of universal credit. However, it does not cover his rent. He applied for a grant, but it was refused because the tenancy is not sustainable.
5. Mrs Cochrane told the Tribunal that she would endeavour to obtain an address for Mrs Kieltyka.
6. The parties were notified that the application would proceed to a further CMD and that the papers would either be served on the Second Respondent at her new address or by advertisement if a new address could not be obtained.
7. The parties were notified that a further CMD would take place by telephone conference call on 8 August 2024 at 10am. The Applicant provided the Tribunal with an address for the second Respondent and the application was served on her by Sheriff officer at this address. Prior to the CMD the Applicant lodged an updated rent statement.
8. The CMD took place on 8 August 2024. The Applicant was represented by Ms Cochrane. The first Respondent participated, joining the call late. The second Respondent did not participate

CMD on 8 August 2024

9. Before Mr Kieltyka joined the call, Ms Cochrane told the Tribunal that Mr Kieltyka recently told her that he is still at the property although he previously said that he was not living there. She said that an engineer had attended to service the boiler but there was no oil in the boiler. However, it appears that he is there some of the time. Ms Cochrane referred to the updated rent statement and confirmed that this sum is still outstanding. She also stated that the

Applicant's position is unchanged, that he is keen to return to the UK as soon as possible, to sell the property and purchase a family home. His employment in the Philippines ended on 25 July 2024. She said that the property is a three-bedroom house, and that Mr Kieltyka lives there alone.

10. Mr Kieltyka joined the call at 10.15 and was advised of the discussions that had already taken place. He told the Tribunal that he has spoken with the second Respondent. She is unable to communicate verbally due to a stroke. She has an appointment with the CAB about the application because she moved out of the property some years ago and should not be liable for the rent. She has no interest in the eviction application. She has her own accommodation and was placed there by Social Work. The Respondents tried to have her taken off the lease, but the agent told them it wasn't necessary. Mr Kieltyka said that he had received the updated rent statement, and it appears to be in order. He has no objection to a payment order being granted against him for this sum as it is due, and he wishes to make repayment arrangements when he has moved out of the house. Following discussion, Ms Cochrane asked the Tribunal if she could amend the application to remove the second Respondent. Mr Kieltyka said that he had no objection to the amendment or to a payment order being granted against him alone.

Findings in Fact

11. The Applicant is the owner and landlord of the property.
12. The Respondent is one of the joint tenants of the property in terms of a private residential tenancy agreement.
13. The Respondent is due to pay rent at the rate of £875 per month.
14. The Respondent has been in arrears of rent since November 2022.
15. The Respondent currently owes the sum of £7738.02 in unpaid rent.

Reasons for Decision

16. Based on the documents lodged with the application and the information provided at the CMDs the Tribunal is satisfied that the Respondent owes the sum of £7738.02 in unpaid rent and that the Applicant is entitled to a payment order for this sum.

Decision

17. The Tribunal determines that a payment order should be granted 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.

Josephine Bonnar, Legal Member

8 August 2024