



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

Chamber Ref: FTS/HPC/CV/23/4162

Re: Property at 10C Longsdale Terrace, Oban, Argyll, PA34 5JS (“the Property”)

Parties:

Miss Louise Macleod and Mr Donald McLennan, Fassaig, Benvoullin Road, Oban, PA34 5EF (“the Applicants”)

Miss Annemarie Maccrone and Mr William Armstrong, 97 Church Road, Stotfold, Hitchin, Hertfordshire, SG5 4NE (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of THREE THOUSAND FIVE HUNDRED AND SEVENTY TWO POUNDS AND FIFTY ONE PENCE(£3572.51) STERLING. The order for payment will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents.

Background

- 1. This is an action for rent arrears raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a copy of a copy of the Private Residential Tenancy Agreement between the parties commencing 9 September 2019, copy emails from the Applicants to the Respondents,**

messages with the Respondents, rent increase notices dated 25 March 2021 and 5 April 2023 and a rent statement.

3. A Case Management Discussion (“CMD”) proceeded on 7 December 2023. The Applicants were in attendance. Neither Respondent was in attendance. Mr Armstrong had advised just before the CMD that he would not be able to dial in as he was picking up his children.
4. Miss MacLeod who spoke on behalf of both Applicants requested a continuation to increase the sum sought and to finalise the rent claimed if the Respondents left the tenancy, as they were expected to do. The Tribunal accordingly continued the case for the arrears position to be finalised and for the sum sought to be amended
5. On 25 February 2024 Miss Macleod subsequently advised the Tribunal the Respondents had left the tenancy on 21 February 2024 and sought to increase the arrears to £4147.51. She subsequently contacted the Tribunal to advise the Respondents had been traced to their new address in Herfordshire.
6. On 18 July 2024 the Tribunal served a copy of the application on the Respondents at their new address and advised them a Hearing would proceed on 2 September 2024. This paperwork was served on the Respondents by Louise McCarthy, Process Server, Hainault on 18 July 2024 and the Executions of Service were received by the Tribunal administration.

Hearing

7. The Tribunal proceeded with Hearing on 2 September 2024 by way of teleconference. Both Applicants were in attendance. There was no appearance by or on behalf of the Respondents despite the Hearing starting 5 minutes late to allow them plenty of time to join the call. The Tribunal was satisfied the Respondents had received notice under Rule 24 of the Regulations and accordingly proceeded with the Hearing in their absence.
8. The Tribunal had before it the Private Residential Tenancy Agreement between the parties dated 9 September 2019, copy emails from the Applicants to the Respondents, messages with the Respondents, rent increase notices dated 25 March 2021 and 5 April 2023, the rent statement to 21 February 2024 and the Applicants’ request to amend the sum sought. The Tribunal considered these documents.
9. Miss MacLeod spoke on behalf of herself and Mr McLennan. She gave evidence that the Respondents had left the Property on 21 February 2024. They had left arrears of £4147.51. The Applicants had the full

deposit of £575 repaid to them by Letting Protection Scotland. The Respondents had not disputed the deposit should be returned to the Applicants. The Applicants were accordingly seeking an Order for £3572.51.

10. On being questioned by the Tribunal, Miss MacLeod advised they had had no correspondence from the Respondents regarding the repayment of arrears. They had received one text from them saying they had no issue with the deposit being repaid to the Applicants. The Respondents had never engaged with them. The rent had been increased to £618 per month. The Tribunal noted the terms of the rent increase letters and the terms of the tenancy agreement.

Findings in Fact

11. The Applicants and the Respondents entered into a Private Residential Tenancy Agreement in relation to the Property on 9 September 2020. In terms of Clause 7 of the tenancy agreement the Respondents agreed to pay the Applicants a monthly rent of £575.
12. On 25 March 2021 the Applicants served a Rent Increase Notice on the Respondents increasing the rent to £600 from 9 July 2021.
13. On 5 April 2023 the Applicants served a Rent Increase Notice on the Respondents increasing the rent to £618 from 9 July 2023. The rent remained at £618 per month until the tenancy ended.
14. The tenancy ended on 21 February 2024 when the Respondents removed from the Property. As at the date of termination the Respondents were in arrears of rent of £4147.51.
15. After the tenancy terminated the Applicants recovered the full tenancy deposit of £575 from the scheme administrator and applied that to the arrears. The outstanding arrears stand at £3572.51.

Reasons for Decision

16. The Tribunal considered the issues set out in the application together with the documents lodged in support, including the tenancy agreement and the rent statements. Further the Tribunal considered the evidence made by Miss MacLeod.

17. The Tribunal was satisfied that the arrears had increased from the date of application and accordingly allowed the sum sought to be amended in terms of Rule 14A of the Regulations to £3572.51.

18. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen together with the rent increase notices. The Tribunal accepted the evidence of Miss MacLeod that the Respondents had incurred arrears, that the Applicants had recovered all the tenancy deposit and had applied this to the arrears which the Respondents had left when they left the Property. The Applicants had produced evidence of persistent non-payment of rent. The Respondents had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Miss MacLeod's evidence that an order for payment in favour of the Applicants should be made.


Decision

19. The Tribunal granted an order for payment of £3572.51 in favour of the Applicants.

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.

Shirley Evans



Legal Chair

2 September 2024

Date