



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

Reference number: FTS/HPC/CV/24/0481

Order granted on 6 September 2024.

Re: Property at 31 Robertson Road, Cupar, Fife, KY15 5YR (“the Property”)

Parties:

Mr Richard Stephen, residing at 52 Rodd Road, Dundee, DD4 7DR (“the Applicant”)

Frank Bell and Clare Jones, residing at 31 Robertson Road, Cupar, Fife, KY15 5YR (“the Respondent”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be made.

Background

The Applicant sought an order for payment of rental arrears totalling £5,432.55. The Applicant had lodged with the Tribunal Form F. The documents produced were a Tenancy Agreement, a schedule of unpaid rental, a Notice to Quit and s.33 notice, both served on 18 October 2023, together with a notice under s.11 of the Homelessness (Scotland) Act 2003. An extract search sheet was lodged with the Tribunal which showed that the applicant is heritable proprietor of the Property.

Case Management Discussion

A continued case management discussion took place by telephone conference at 10am on 6 September 2024. The Applicant was represented by David Wilkie of The

Property Management Company. Both respondents were present. Neither of them was represented.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a short-assured tenancy Agreement for the Property dated 23/01/2015. The lease initially ran from 23/01/2015 to 23/07/2015. The first respondent removed from the property about 4 years ago, but his name remained on the lease.
2. The rent in terms of the Tenancy Agreement was £700 per month. On 23/07/2023 the rent increased to £950 per month.
3. The respondents have not made a full payment of rental since February 2022. At the date of application there were arrears of rent totalling £5,432.55. At today's date there are rent arrears totalling £7,199.67
4. On 18/10/2023 the applicant served a notice to quit on each respondent. On 29/01/2024 the applicant submitted this application to the tribunal.
5. On 19 June 2024 the tribunal made an order for repossession of the property. The second respondent moved out the property on 13/08/2024.
6. The applicant wants to amend the sum claimed by increasing the sum applied for from £5,432.55 to £7,199.67 in terms of rule 13 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. That application is unopposed.
7. The application is amended so that the sum applied for is £7,199.67.
8. The respondents accept that £7,199.67 is the correct figure for arrears of rental. The respondents offer no resistance to the application for a payment order. The respondents hope to agree a payment plan with the applicant.

Reasons for the Decision

The Tribunal determined to make an Order for payment of £7,199.67. Rent was lawfully due in terms of clause 3 of the Tenancy Agreement. The respondents have not made a full payment of rental since February 2022. At the date of application there were arrears of rent totalling £5,432.55. At today's date there are rent arrears totalling £7,199.67

Decision

For the foregoing reasons, the Tribunal determined to make an Order for payment. The Tribunal makes an order for payment of £7,199.67 together with interest at 4% per annum from today's date until final payment.

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.

Date: 6 September 2024

Paul Doyle

Legal Member: