



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/24/1465

Re: Property at Flat 2/2, 33 East King Street, Helensburgh, G84 7QJ (“the Property”)

Parties:

Mr Christopher Riddler, 70 Campbell Street, Helensburgh, G84 9QW (“the Applicant”)

Mr Kirk Harrild, 33b Grant Street, Helensburgh, G84 7QN (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £7670 should be granted in favour of the Applicant.

Background

1. By application received on 29 March 2024, the Applicant submitted an application seeking a payment order brought in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”). The Applicant sought an order for payment of £8090 in respect of rent arrears which were alleged to be due by the Respondent to the Applicant.
2. Attached to the application form were:
 - i. copy private residential tenancy agreement between Simon Riddler and the Respondent in relation to the property which commenced on 1 April 2019.

- ii. rent statement showing the outstanding arrears due as at March 2024 to be £8090.
 - iii. Application from the Applicant on Form E for an eviction order against the Respondent under rule 109 of the 2017 rules dated 4 January 2024.
 - iv. Notice to Leave citing grounds 11 (breach of tenancy agreement) and 12A (substantial rent arrears) together with proof of service on the Respondent by sheriff officer on 7 September 2023.
 - v. Section 11 notice sent to Argyll and Bute Council on 15 January 2024.
3. The application was accepted on 22 May 2024.
 4. On 19 July 2024, an email was received from the Applicant's representative. This advised the tribunal that the Applicant's representative had been informed on 7 July 2024 by Argyll and Bute Council that the Respondent had vacated the property at the beginning of March 2024, and was now living at a new address in Helensburgh. They had employed sheriff officers to conduct an address trace for the Respondent, which confirmed the new address intimated by the Council.
 5. The application papers, together with notice of the case management discussion (CMD) scheduled for 29 August 2024, were served on the Respondent by sheriff officer on behalf of the tribunal at his new address, 33b Grant Street, Helensburgh G84 7QN, on 29 July 2024.
 6. The accompanying eviction application was withdrawn by the Applicant's representative by email dated 29 July 2024 following confirmation that the Respondent had vacated the property. The email from the Applicant's representative stated that they wished the civil proceedings application to proceed using the Respondent's new address.
 7. No written representations or time to pay application were received from the Respondent prior to the CMD.

The CMD

8. A CMD was held by remote teleconference call on 29 August 2024. The Applicant was represented by Mr Mahmood Ullah of the Eviction Hotline. The Respondent was not present on the teleconference call and was not represented. The tribunal delayed the start of the discussion by 10 minutes, in case the Respondent had been detained. He did not appear, however, and no telephone calls or messages had been received from him.
9. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a CMD

had been duly complied with. It therefore proceeded with the CMD in the absence of the Respondent.

10. Mr Ullah told the tribunal that there had been no contact from the Respondent since the application was made and no payments had been made towards the arrears. The Applicant therefore sought an order for payment against the Respondent for the outstanding balance of £8090.
11. When asked by the tribunal chairperson precisely when the Respondent had moved out of the property, Mr Ullah said that he was uncertain about this. The tribunal noted that the rent statement provided included the rent payable for March 2024, but it was not clear from either the tenancy agreement or the rent statement on which date the rent was payable each month. The tenancy agreement stated that the first rental payment was to be paid on 21 March 2024, which was before the tenancy began. It did not include details of which date in the month the rent was due thereafter. Mr Ullah said that he understood that the rent was payable on the 19th of each month in advance. He said that he would be content with a payment order for the amount sought under deduction of one month's rent for March 2024, given the uncertainty over this.
12. The tribunal also noted that a deposit of £375 had been paid by the Respondent in terms of the tenancy agreement and was held by Safe Deposits Scotland. Mr Ullah said that this was still being held by Safe Deposits Scotland, but that he anticipated that the Applicant would make a claim on the deposit for cleaning as the property had been left in a filthy state, as well as for unpaid rent.

Findings in fact

13. The tribunal made the following findings in fact:
 - The Applicant is the owner and registered landlord of the property.
 - The private residential tenancy between Mr Simon Riddler and the Respondent commenced on 1 April 2019.
 - Mr Simon Riddler is the Applicant's brother and is named on the landlord register as the Applicant's agent.
 - The rent payable under the tenancy agreement was £375 per month, payable monthly in advance. The tenancy agreement does not state on which date of the month the rent was due, other than the first rental payment, which was due on 21 March 2019.
 - The rent increased to £420 per month in October 2022.
 - The Respondent paid a tenancy deposit of £375 at the commencement of the tenancy.
 - The Respondent vacated the property around early March 2024.

- As at an unspecified date in March 2024, the Respondent owed the Applicant £7670 in rent arrears.

Reasons for decision

14. In the absence of any written representations from the Respondent disputing the facts, or any appearance by him at the CMD, the tribunal considered that it was able to make sufficient findings to determine the case, and that to make a decision without a hearing would not be contrary to the interests of the parties. It therefore proceeded to make a decision at the CMD without a hearing in terms of rules 17(4) and 18 (1) (a) of the 2017 rules.

15. On the basis of all the evidence before it, the tribunal was satisfied that the Respondent owed £7670 in rent to the Applicant as at the date of the CMD. This figure was reached, with Mr Ullah's agreement, by deducting the £420 rent for March 2024 from the total of £8090 shown on the rent statement dated March 2024.

Decision

The tribunal grants an order for payment by the Respondent to the Applicant for the sum of £7670.

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.

Sarah O'Neill

29 August 2024

Legal Member/Chair

Date