



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

Chamber Ref: FTS/HPC/CV/24/2310

Re: Property at Flat 35 Avon House, The Furlongs, Hamilton, ML3 0BL (“the Property”)

Parties:

Ahmeed Balogun, 193 New North Road, Ilford, IG6 3AA (“the Applicant”)

Matthew John Collins, Flat 35 Avon House, The Furlongs, Hamilton, ML3 0BL (“the Respondent”)

Tribunal Members:

Jim Bauld (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order should be granted for payment in the sum of EIGHT THOUSAND, TWO HUNDRED AND THIRTY FOUR POUNDS AND SEVENTY TWO PENCE (£8,234.72)

Background

1. By application dated 21 May 2024, the applicant sought an order under section 51 of (“the Act”) and in terms of rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the procedure rules”).
2. On 5 June 2024 the application was accepted by the tribunal and referred for determination by the tribunal

3. A Case Management Discussion (CMD) was set to take place on 9 October 2024 and appropriate intimation of that hearing was given to both parties.

The Case Management Discussion

4. The Case Management Discussion (CMD) took place on 9 October 2024 via telephone case conference. The applicant was not personally present in the telephone case conference but was represented by David Gray, Senior Accredited paralegal from Gilson Gray, solicitors, Edinburgh. The Respondent did not take part.
5. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters.
6. The tribunal asked various questions of the applicant's representative with regard to the application.
7. He confirmed that he wished the order for payment to be made in the amended sum of £8,234.72.

Findings in Fact

8. The Applicant is the registered owner of the property.
9. The Applicant and the Respondent as respectively the landlord and tenant entered into a tenancy of the property which commenced on 3 August 2023.
10. The tenancy was a private residential tenancy in terms of the Act.
11. The initial agreed monthly rental was £595.
12. Arrears had started to accrue in January 2024 and at the date of the lodging of the application arrears amounted to £2,975.
13. The amount of arrears at the date of the CMD was £5,950.
14. The applicant has incurred further reasonable costs incurred as a result of the Tenant's failure to pay rent on time. These costs amounted to £2,284.72.
15. Appropriate accounting had been provided in respect of the outstanding rent and the additional costs with the application to the tribunal.

Reasons for Decision

16. The tribunal accepted the unchallenged evidence of the applicant regarding the outstanding sums. The tribunal noted that the respondents had failed to engage with both the applicant and with the tribunal despite having ample opportunity to do so.
17. The tribunal also noted the additional claim in respect of the recovery of reasonable costs under Clause 37 of the tenancy agreement which states:-

The Landlord will be entitled to pursue the Tenant for any reasonable costs incurred as a result of the Tenant's failure to pay rent on time including but not limited to any charge for returned cheques or any reasonable costs incurred in pursuing the Tenant for payment of unpaid rent. The recovery of reasonable legal costs and expenses, if determined as appropriate, could also be sought from the Tenant.

18. On behalf of the Applicant, the solicitors had lodged vouching for the reasonable costs incurred due to the Respondent's failure to pay rent. Invoices totalling £2,284.72 showed the cost insured by Applicant to his solicitors as follows
- Invoice 086427 for £595.52 (relating to initial advice concerning rent arrears; preparation of Notice to Leave under Ground 12 (rent arrears); and the issue of pre-action correspondence)
 - Invoice 088676 for £1,119.20 (relating to the issue of pre-action correspondence; submission of a Form E application under Ground 12 (rent arrears); and submission of a Form F application for rent arrears)
 - Invoice 094222 for £570 (relating to the preparation and attendance at two Case Management Discussions)
19. Appropriate intimation of this additional claim had been given to the respondent in advance of the CMD.
20. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

The order for payment of the sum of £8,234.72 is granted.

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.

Jim Bauld

9th October

Legal Member/Chair

Date