



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/24/1643

Re: Property at 11 Scotsmill Crescent, Blackburn, Aberdeenshire, AB21 0JG ("the Property")

Parties:

Ms Adalheidur Holmgeirsdottir, Heidarbraut 19, 230 Kefiavik, Iceland ("the Applicant")

Mr Darren Bell, 34 Miltonfold, Bucksburn, Aberdeen, AB21 9DR and Ms Kim Downie whose present whereabouts are to the Applicant unknown ("the Respondent")

Tribunal Members:

Gillian Buchanan (Legal Member)

Decision (in absence of the Respondents)

At the Case Management Discussion ("CMD"), which took place by telephone conference on 10 February 2025, the Applicant was not in attendance but was represented by Ms Leanne Young of DJ Alexander. The Respondents were neither present nor represented.

The Tribunal was satisfied that the requirements of Rule 24(1) of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ("the Rules") had been satisfied relative to the Respondents having received notice of the CMD and determined to proceed in the absence of the Respondents in terms of Rule 29.

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that:-

Background

A CMD had previously taken place on 14 October 2024. The Respondents were not present or represented at that CMD.

That CMD was adjourned at the instance of the Tribunal to allow the Applicant to produce information required by the Tribunal to support the application for payment of rent arrears and damages. A Direction was also issued by the Tribunal.

By email dated 3 February 2025, the Applicant's representative sought to amend the Application to reduce the sum claimed to £18,010.03 being the amount due in terms of their Rent Statement of 25 April 2024.

The CMD

At the CMD Ms Young for the Applicant stated that she had not received the Case Management Discussion Notes or the Direction following the previous CMD on 14 October 2024 and notwithstanding the email sent to her dated 30 October 2024. She said she had asked for the case papers which she called the tribunal office on 3 February 2024 but these had not been provided.

Ms Young confirmed the effect of the amendment intimated in her email of 3 February 2025 is to reduce the Applicant's claim to the sums due in terms of the Rent Statement of DJ Alexander (the Applicant's letting agent) dated 25 April 2024 and that the Applicant is no longer pursuing a damages claim for the time being.

The Tribunal asked about the issues raised at the previous CMD relative to the Rent Statement and in particular the entries of 4 September 2023 and 12 October 2023 in the sums of £2030.77 and £580.80 respectively.

Ms Young explained that in this instance a deposit scheme known as "Reposit" was used. Effectively, this is deposit insurance. The tenant pays monthly to Reposit rather than paying a traditional deposit at the outset of the tenancy. Following the departure of the Respondents from the Property on 29 April 2023 the Applicant made a claim to Reposit for rent arrears and damages. The maximum amount paid out under the insurance was £2030.77. However, the insurers determine how those monies should be allocated as between rent arrears and damages. In this instance of the sum of £2030.77 paid by Reposit, £580.80 required to be allocated to the damages claim.

The Tribunal asked about the efforts made to trace the Second Respondent as also highlighted at the last CMD. Ms Young confirmed that following the departure of the Respondents Sheriff Officers were instructed to carry out a trace. An address for the Second Respondent was identified and intimated as part of the Application. The Tribunal noted the Sheriff Officers' report of 19 September 2024 following their unsuccessful attempt to serve the papers on the Second Respondent at that address. Ms Young did not consider any further trace required in the circumstances.

Findings in Fact

1. The Applicant is the heritable proprietor of the Property.
2. The Applicant leased the Property to the Respondents in terms of a Private Residential Tenancy that commenced on 30 September 2021 ("the PRT").
3. The Respondents removed from the Property on 29 April 2023 and the tenancy ended that day.
4. The Respondents failed to pay rent due in terms of the PRT.
5. The amount sought by the Applicant in terms of DJ Alexander's Rent Statement of 25 April 2024 is £18,010.03 which is properly due by the Respondents to the Applicant.
6. The Applicant is entitled to a payment order in the sum of £18,010.03.

Reasons for Decision

The Respondents did not submit any representations to the Tribunal and did not attend the CMD. The factual background narrated by the Applicant within the application papers and orally by Ms Young at the CMD was not challenged and was accepted by the Tribunal.

The Tribunal allowed the sum claimed in the Application to be reduced to £18,010.03 and decided to grant a payment order in that amount.

Decision

The Tribunal grants a payment order against the Respondents jointly and severally in favour of the Applicant in a sum of £18,010.03.

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.

Legal Member: Gillian Buchanan

Date: 10th February 2025

Gillian Buchanan