



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/24/1674

Re: Property at 1 Baberton Mains Loan, Edinburgh, EH14 3EP (“the Property”)

Parties:

Mr Shakil Chohan, 2 East Craigs Wynd, Edinburgh, EH12 8HJ (“the Applicant”)

Mr Agha Khan, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

1. Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent shall make payment to the Applicant of the sum of eight thousand three hundred and nine pounds and sixty seven pence (£8309.67).

2. This was an application to recover rent arrears in terms of section 71 of the Private Housing (Tenancies) (Scotland) Act 2014 (‘the Act’) and rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’. The Applicant was represented by Mr Ashley Puren of Pure Property Management Edinburgh Ltd. The Respondent did not attend and was not represented. The Tribunal had sight of the certificate from the clerk dated 7 February 2025 which confirmed that service was effected by advertisement on the Tribunal website from 9 January 2025 until 6 February 2025. The Tribunal proceeded with the hearing in the Respondent’s absence in terms of rule 29 and in accordance with the overriding objective.

Preliminary matters

3. The Tribunal noted that the Applicant is the registered landlord of the Property but he is not the owner. The owners on the land certificate are Abdul Wahid Chohan and Iqbal Begum. The landlord on the tenancy agreement is Mr Chohan. Mr Puren explained that he acts for the Applicant in his portfolio of properties, acting under a service agreement constituted in 2012. It is his understanding that the Property is owned by the Applicant's father and brother. The Applicant is the Mr Chohan referred to in the tenant agreement. The Tribunal had a brief adjournment to enable Mr Puren to obtain instructions from the Applicant about the nature of the agreement with the owners for the Applicant to let the property and make this application. After taking instructions, Mr Puren advised that the Property was owned by the Applicants parents who are now deceased. The Applicant was able to let the Property due to a power of attorney in his favour and a verbal agreement with his parents for him to act as landlord. The Property forms part of their estate which is in the process of being wound up.

5. Findings in fact

- The Applicant is the registered landlord of the Property.
- The property is owned by the Applicant's deceased parents.
- The Applicant was entitled to let the Property due to a power of attorney executed by the owners in his favour.
- The parties entered into a private residential tenancy agreement ('PRT') for let of the Property on 27 February 2018.
- The tenancy agreement had an agreed rent of £1175 per month.
- The deposit was £1275.
- The rent was increased to £1225 on 10 December 2019.
- The rent was increased to £1275 on 10 June 2022.
- The rent was increased to £1313 on 14 June 2023.
- Rent arrears began to accrue in January 2024.
- When Sheriff Officers attended at the Property in August 2024 it was found to be abandoned.
- The Respondent left the Property on 5 August 2024.
- The rent arrears accrued to 27 July 2024 were £8309.67.
- The Property was left in a poor state and the deposit was used to pay for the damages and could not be applied to the arrears.

Reasons

6. The tribunal was satisfied that it had sufficient information before it to make a decision and the procedure has been fair. This was an undefended application to recover rent arrears arising out of a PRT as set out in the rent statement provided. The Tribunal was satisfied on the balance of probability that the sum of £8309.67 was owed and the deposit was not available to be applied to the arrears due to the condition of the Property. The Tribunal accordingly granted the order sought.

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.

Lesley Ward

Lesley Anne Ward

7 February 2025

Legal Member/Chair

Date