



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014 and rule 18 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

Reference number: FTS/HPC/CV/24/1163

Re: Property at 18 Sorn Green, Glenrothes, KY7 4SF (“the Property”)

Parties:

Ms Cristina Bento, 1 Scoonie Buildings, Scoonie Road, Leven, KY8 4SB (“the Applicant”)

Mrs Esther Sumner, 1 Orebank Road, Cardenden, Lochgelly, KY5 0JN (“the Respondent”)

Tribunal Member:

Andrew Cowan (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the sum of £1128 is lawfully due by the Respondent and granted an order for payment of that sum by the Respondent to the Applicant.

Background

1. By an application dated 10 April 2024 (“the Application”), application sought a payment order in favour of the Applicant in relation to sums claimed as due by the Respondent to the Applicant arising from the terms of a former tenancy agreement between the parties in relation to the Property. The Applicant had been the Tenant, and the Respondent had been the Landlord under a Private Residential Tenancy dated 19th October 2020. The Tenancy Agreement between the parties terminated on or around 7 February 2024.
2. The Application sought payment of:

- a. The sum of £1128 as an overpayment of rent made by the Applicant. The Applicant avers that the Respondent increased the rent due in terms of the tenancy agreement from £580 per month to £700 per month for the period from March 2023 until the tenancy was terminated. The Applicant further avers that the Respondent was not entitled in law to increase the rent by that period as no relevant notice had been served upon the Applicant and, in any event, the maximum increase in rent which the Respondent was entitled to apply was restricted to 3% of the current rent due at the time the rent increase was applied ("the first claim"), and
 - b. The sum of £230 as compensation for inconvenience suffered by the Applicant, as the Respondent had failed to timeously repair blocked water pipes at the Property on four separate occasions. ("the second claim").
3. By email dated 15 January 2025 Mr Robert MacDonald, solicitor, intimated to the Tribunal that he had been instructed to act on behalf of the Respondent in relation to the Application. Mr MacDonald lodged written submissions on behalf of the Respondent. Those submissions confirmed that the Respondent had increased the Applicant's rent from £580 to £700 per month with effect from 19 March 2023, and that the Applicant paid the increased rent from 19 March 2024 until January 2024 (a period of 11 months). The written submission confirmed that the Respondent increased the rent "in ignorance of the restrictions placed by the rent cap". The written submissions did not explain whether it was accepted that the sum claimed by the Applicant in the first claim was due to be paid by the Respondent.
4. The Tribunal held a Case Management Discussion ("CMD") in relation to the application on 27th January 2025.
5. At the CMD the Applicant accepted that she was unable to proceed with the second claim.
6. At the CMD the Tribunal issued a Direction to the Respondent to confirm with the Tribunal if she wished to dispute the sum claimed by the Applicant in her first claim.
7. By email dated 14 February 2025 the Respondent's solicitor confirmed that the Applicant is entitled to recover the increased rent payments paid by the Applicant. The sum claimed by the Applicant in relation to these increased rent payments is £1128.
8. By email dated 26th March 2025 the Tribunal required the Applicant to confirm if she wished to accept a payment from the Respondent in the sum of £1128 in full and final settlement of her claims as raised in her application.

9. By email dated 26th March 2025 the Applicant confirmed that she wished to accept a payment in the sum of £1128 in full and final settlement of the sums claimed in her application

Decision

10. Under rule 18(a) of the Procedure Rules the First-Tier Tribunal may make a decision without a hearing if the First-tier Tribunal considers that—
- (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and
 - (ii) to do so will not be contrary to the interests of the parties;
11. The Tribunal have determined that following facts are not in dispute:
- a. The Respondent let the Property to the Applicant in terms of a written tenancy agreement which commenced on 19th October 2020. The Tenancy Agreement between the parties terminated on or around 7 February 2024.
 - b. The initial monthly rent due in terms of the tenancy agreement between the parties was £560,00 per month. The rent had thereafter been increased during the term of the tenancy to £580 per month.
 - c. On 26 February 2023 the Respondent again increased the rent to £700 per month
 - d. The Applicant paid rent of £700 per month from March 2023 until the tenancy terminated in February 2024.
 - e. The Respondent was not entitled to charge the rent of £700 per month for the period from March 2023 until the tenancy terminated in February 2024.
 - f. The Respondent was only entitled to increase the rent to £597.40 for the period from, March 2023 until the tenancy terminated in February 2024
 - g. The Applicant has overpaid rent for the period from March 2023 until the tenancy terminated in February 2024 in the sum of £1128.

- h. The Respondent accepts that the Applicant has overpaid rent for the period from March 2023 until the tenancy terminated in February 2024 in the sum of £1128.
 - i. The Applicant is willing to accept payment of the sum of £1128 from the Respondent in full and final settlement of the claims made in her application
12. Having regard to such facts as are not disputed by the parties, the Tribunal is able to make sufficient findings to determine the case; and to do so is not contrary to the interests of the parties.
13. The Tribunal accordingly granted an order for payment by the Respondent to the Applicant in the sum of £1128.

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.

Andrew Cowan

Andrew Cowan

Legal Member/Chair

7th April 2025

Date