



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/20/0528

Re: Property at Bolshan Cottage, Bolshan, DD11 4UH (“the Property”)

Parties:

Mr Michael Ferrier, C/O Wardhaugh Property, 155 High Street, Arbroath (“the Applicant”)

Mr Connor Webster, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Richard Mill (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order be granted against the Respondent in the sum of Nine Hundred and Seventeen Pounds and Forty Nine Pence (£917.49)

Introduction

This case was heard at the same time as case referenced FTS/HPC/CV/20/0527.

Both applications are under Rule 111 and section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

In both cases a Payment Order is sought in respect of arrears of rent and other charges.

The applicant in both cases is the former landlord. The respondent in each case is one of the two joint tenants under the relevant lease. Unusually two separate applications have been submitted.

Service of the applications were firstly made upon the respondents by Sheriff Officer delivery on 16 March 2020. No steps were taken by them thereafter to lodge any response or representations.

A Case Management Discussion (CMD) took place by teleconference on 16 July 2020 at 10.00 am. Neither respondent participated in the call. They had left the property. The applicant's representative indicated a wish to increase the sums sought due from the respondents. No Order for payment was sought at that stage. In the circumstances both applications were continued to a fresh CMD with the requirement that a Rule 14A application to amend be made.

A Rule 14A amendment application was made by the applicant's representative on 29 July 2020. This was accompanied by an up to date rent statement for the period up to the respondents departure when they vacated the property.

Service of both the amended applications, and the next CMD, were made upon the respondents on the Chamber website on 23 September 2020 as there was no up to date address for either of them.

The next CMD took place by teleconference at 10.00 am on 28 October 2020. No one participated. A Direction was issued to the applicant / his representative. A misunderstanding had led to her failure to participate in the CMD on 28 October 2020.

A further CMD took place by teleconference at 10.00 am on 6 January 2021. Intimation of this hearing had been made on the Chamber website on 16 November 2020. The applicant was again represented by Lori Beattie of Wardhaugh Property. Neither respondent participated in the call.

Findings and Reasons

The property is Bolshan Cottage, Bolshan, DD11 4UH.

The applicant is Mr Michael Ferrier. He is named as the former landlord in terms of the lease. The heritable proprietor of the property is Ferrier Holdings Limited which is a company which Mr Ferrier has an interest in.

The respondents in the two cases are former joint tenants. They are Mr Ryan Conroy and Mr Connor Webster.

A private residential tenancy was entered into between the parties with entry on 31 May 2018. The monthly rent was stipulated at a rate of £825 per calendar month. A deposit was paid in the sum of £900.

The last rent payment was paid on 1 December 2019. At the time of the two applications being made to the Tribunal, two months' rent was outstanding totalling £1,650.

Notice to leave was served on the respondents on 6 January 2020. The basis of the notice was on the grounds that the applicant intended to sell the property. The respondents vacated the property as at 31 March 2020. The applicant has no forwarding address for either of them.

Following the Rule 14A amendment, the applications were amended so as to seek the full amount of rent outstanding due up to the date of the respondents' departure on 31 March 2020. There was a total arrears as at that time of £2,475.

The original deposit paid in the sum of £900 has been set against the outstanding arrears. The applicant also seeks recovery of additional charges relating to the fitting of new front and patio door locks in the sum of £190 and the replacement of a ladder in the sum of £69.99. Those additional charges total £259.99. The set of ladders had been removed by the tenants. Not all keys were returned for the property.

The applicant is entitled to recover arrears of rent lawfully due under the lease between the parties. He is also entitled to recover sums incurred as a consequence of the respondents' acts and omissions which have incurred additional expenditure.

The Tribunal relied upon the entirety of the documentary evidence which was found to be credible and reliable, together with the applicant's representative's submissions. This is all unchallenged.

The applicant accordingly seeks a total balance in the sum of £1,834.99.

Whilst the applications are being heard together, they are not conjoined. The applicant has not sought to obtain an Order for the full amount outstanding to be implemented against the respondents jointly and severally. In the circumstances an order for payment in both cases is made to the extent of one-half of the total amount sought. The total is not equally divisible by 2. The total sum sought in both cases has been intimated to the respondents. The applicant's representative sought a payment order in the sum of £917.50 from the respondent in the first case, Mr Ryan Conroy, and the sum of £917.49 from the respondent in the second case, Mr Connor Webster. Payment Orders for these amounts are 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.

Richard Mill

6 January 2021

Legal Member/Chair

Date