



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/19/0590

Re: Property at 109 Almond Road, Cumbernauld, G67 3LT (“the Property”)

Parties:

Ms Audrey Smith, 2A Kinnoul Lane, Glasgow, G12 9HF (“the Applicant”)

Miss Eloise Buchan, Mr Thomas MacLeod, 109 Almond Road, Cumbernauld, G67 3LT (“the Respondents”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondents to the applicant of the sum of three thousand six hundred and eighty pounds be made (£3680).

This was a case management discussion ‘CMD’ in connection with an application in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2107, ‘the rules’ and s71(1) of the Private Housing (Tenancies) (Scotland) Act 2016, ‘the Act’. The tribunal had before it the following copy documents:

1. Application dated 21 February 2019 and received by the Tribunal on 22 February 2019.
2. Notice to leave dated 22 January 2019.
3. Land certificate.
4. Email sent from applicant to respondents dated 22 January 2019.
5. Tenancy agreement.

6. Exchange of emails between the Tribunal and applicant.
7. Email from applicant to Tribunal dated 17 June 2019 containing up to date rent arrears calculation.

The applicant attended the tribunal. The respondents did not attend and were not represented. The tribunal had sight of the sheriff officer's execution of service dated 31 May 2019 which confirmed that service on both respondents was carried out on that date. The tribunal was satisfied that notice had been carried out in terms of rule 24 and that it was fair in all of the circumstances to proceed with the CMD in terms of rule 29.

The tribunal also had an application for eviction in terms of rule 109.

Preliminary matters.

1. The tribunal noted that the rent arrears calculations contained in the email attached to the notice to leave dated 22 January 2019 was different from the rent arrears calculations contained in the application and the subsequent emails from the applicant to the tribunal. The applicant was unable to account for this discrepancy. The tribunal noted that the email attached to the notice to leave contained a detailed calculation. It appeared to the tribunal that there was a difference of £100. The notice to leave calculation appears to be based on arrears to 18 January 2019 of £1380 plus £57 taking the arrears to 22 January 2019. The arrears as at the notice to leave are therefore £1437. Subsequent calculations refer to arrears of £1480 as at the 22 January 2019, a difference of £100. The applicant conceded that there was a difference. Her position is that she is relying on the calculations in the notice to leave.

Discussion

The applicant was seeking an order today. Her position was that rent arrears are continuing to accrue. She made reference to her most recent email to the tribunal dated 17 June 2019 which calculated the arrears as at 28 June 2019 to be £3780 (assuming that no payments were received on 21 or 28 June 2019.). She stated that no payments had been made. Taking into account the discrepancy of £100 referred to above the arrears would therefore be £3680.

Findings in fact and law

1. The applicant is the owner of the property.
2. The applicant entered into a private rented tenancy agreement with the respondents for the let of the property in July 2018.
3. The rent agreed was £100 per week or around £433.33 per month.

4. Rent arrears accrued from October 2018.
5. The rent arrears as at the 3 July 2019 are £3680.

Reasons

The tribunal was satisfied that it had enough information before it today to make a decision and that the procedure had been fair. The tribunal was satisfied that the increase in rent claimed in the applicant's email of 17 June 2019 had been intimated to the respondents. The terms of rule 14A which requires any increase in the sum sought to be intimated 14 days before any hearing had been complied with. The tribunal accordingly granted an order for payment in the sum of £3680.

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.

L.Ward

3 July 2019

Lesley Ward Legal Member

Date