



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/21/0761

Re: Property at 3-4 Noble Place, Hawick, Scottish Borders, TD9 9QF (“the Property”)

Parties:

A & C Property Lets Ltd, 41 North Hermitage Street, Newcastleton, Scottish Borders, TD9 0RA (“the Applicant”)

Miss Cherrie Warrender, 3-4 Noble Place, Hawick, Scottish Borders, TD9 9QF (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

1. Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent for £1540.46

2. Attendance and Representation

This was a Case Management Discussion to consider the application dated 19th March 2021 brought in terms of Rule 111 (civil proceedings in relation to a Private Residential Tenancy) of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended. The discussion took place by teleconference as a result of the restrictions required by the COVID-19 pandemic.

The Applicant was represented by Caitlin Tofts, Catford Investments Ltd, 1 North Bridge Street, Hawick, TD9 9BD.

The Respondent was not present. The Tribunal did not commence until 14.08 hours and the Respondent was not present and notice of this CMD had been served by the Tribunal to the Respondent.

3. Case Management Discussion

The Applicant's representative told the Tribunal that the property had been sold with the Respondent remaining as a tenant around 2 to 3 months ago. She said that there had been no contact between herself or the Applicant and the Respondent for a number of months now. The Applicant's representative said she sought a payment order but sought to amend the sum sought in the Application. She explained that some universal credit payments had been received since the date of the Application which had brought the sum due by the Respondent down from £2491.83 to £1540.46. Accordingly the payment order sought by the Applicant was £1540.46.

4. Findings in Fact

1. This Application is dated 19th March 2021 and brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 14th August 2018.
3. The Respondent took occupancy of the property together with her partner on 14th August 2018. However she and her partner split and the Respondent took on full responsibility for the Private Residential Tenancy on 25th August 2020. A formal agreement to this effect dated 24th August 2020 was lodged with the Application.
4. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
5. Rent payable under this tenancy was £92.05 a week.
6. As at 19th March 2021 the rent due by the Respondent to the Applicant was £2491.83.
7. The Applicant since the date of the Application has received some Universal Payments for the arrears directly reducing the rent due by the Respondent to the Applicant to £1540.46

5. Reasons for Decision

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Private Residential Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the respondents were in arrears of rent lawfully due and a Rent Statement for the property was lodged. Rent owed from same amounted to £2491.83. However in the interests of justice and having regard to the overriding objective the Tribunal allow the Applicant's representative to reduce by verbal amendment the sum sought to £1540.46. This was in the Respondent's interests and did not cause prejudice. Accordingly in terms of Section 71 of the Private Housing

(Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £1540.46 against the Respondent.

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.

Karen Kirk

Legal Member/Chair

09/08/2021

Date