



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/21/0946

Re: Property at 31 Barnton Place, Glenrothes, Fife, KY6 2PS (“the Property”)

Parties:

Mr Eugene Lawrence Hogan, Mrs Margaret Hogan, 34 Liberton Drive, Glenrothes, Fife, KY6 3PB (“the Applicants”)

Miss Louise Gourlay, Mr Dean Begg, 2 Hill Street, Dysart, Kirkcaldy, Fife, KY1 2XA (“the Respondents”)

Tribunal Members:

Ms H Forbes (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 should be granted in favour of the Applicants in the sum of £1603.86

Background

1. This is an application received in the period between 19th April and 17th June 2021, made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”) seeking an order for payment in the sum of £1603.86. The Applicants included with the application a rent schedule and a copy of the tenancy agreement between Miss Gourlay and the Applicants, which incorporated a guarantor agreement signed by Mr Begg. The tenancy commenced on 12th October 2019 at a monthly rent of £585.
2. Notification of the application and a Case Management Discussion set down for 3rd August 2021 was served upon the Respondent by Sheriff Officers on 30th June 2021.

Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 3rd August 2021. The Applicants were in attendance. The Respondents were not in attendance.
4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondents had been given reasonable notice of the time and date of the CMD and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondents.
5. The Applicants said they have had no contact from the Respondents. There have been two previous applications to tribunals for orders for payment, and an application for an eviction order, while Miss Gourlay was still residing in the Property. All orders sought were granted. Ten days before the eviction order was due to be actioned, Miss Gourlay vacated the Property. The Respondents did not participate at any of the previous Case Management Discussions. There is an outstanding arrears amount due in the sum of £1603.86.

Findings in Fact and Law

6.
 - i. Miss Gourlay and the Applicants entered into a private residential tenancy agreement in respect of the Property that commenced on 12th October 2019 at a monthly rent of £585.
 - ii. Rent lawfully due in terms of the tenancy was not paid by Miss Gourlay.
 - iii. The Respondent, Mr Begg, undertook to act as Guarantor in terms of the tenancy agreement.
 - iv. The Respondents are jointly and severally liable for the outstanding sums.
 - v. The Applicants are entitled to recover rent lawfully due.

Reasons for Decision

7. Rent lawfully due in terms of the tenancy agreement between the parties remains outstanding. The Applicants are entitled to recover rent lawfully due.

Decision

8. An order for payment is granted in favour of the Applicants in the sum of £1603.86.

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.

H Forbes

Legal Member/Chair

3rd August 2021
Date