

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/1346

Re: Property at 20 Hebenton Road, Elgin, Moray, IV30 4EP (“the Property”)

Parties:

Mr Thomas Marsh, 8 Corrichie Place, Banchory, AB31 5WP (“the Applicant”)

Miss Karen Girvin, 20 Hebenton Road, Elgin, Moray, IV30 4EP (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £1,640.40 should be granted in favour of the Applicant

Background

This is an application dated 2nd May 2019, made in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment in the sum of £1,640.40 in respect of unpaid rent. The parties entered into a tenancy agreement in respect of the Property which commenced on 16th December 2018. The Respondent made payment of the first month’s rent on the start date of the Tenancy. The Respondent then fell into arrears of rent with a sum of £1,640.40 outstanding at the time of making the application.

By email dated 17th July 2019, the Respondent informed the Tribunal that she was unable to attend the Case Management Discussion set down for the following day, as she was in hospital due to complications following planned surgery.

The Case Management Discussion

The case called for a Case Management Discussion (“CMD”) on 18th July 2019 at Elgin Library, Cooper Park, Elgin. The Applicant was present and accompanied by

Audrey Pope, Residential Property Manager, and Michelle Rourke, Residential Lettings Manager, both of CCL Property. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules as intimation of the CMD had been made upon the Respondent by Sheriff Officers on 13th June 2019. The Respondent had not made any written representations to the Tribunal.

The rent for the Property was £750 per month. No rent was paid by the Applicant for the months of January and February. Thereafter, the Respondent was in receipt of Housing Benefit, which was paid directly to the Applicant by the local authority. The Housing Benefit did not cover the full rent. The last payment of Housing Benefit, in the sum of £403 was made on 31st June 2019. At the date of the CMD, the arrears of rent amounted to £2,996.40.

Findings in Fact

1. In terms of the tenancy agreement between the parties, the sum of £750 per month was due to be paid by the Respondent to the Applicant.
2. The Respondent has failed to make payment of rent lawfully due.
3. The Applicant is entitled to recover the unpaid rent as set out in the Application.

Reasons for Decision

Rent lawfully due to the Applicant by the Respondent has not been paid in terms of the tenancy agreement between the parties. The Applicant is entitled to recover the unpaid rent. No written application had been made by the Applicant in terms of Rule 13 to increase the sum sought to the current level of arrears. As the Respondent was not present, the Tribunal did not allow an oral amendment in terms of Rule 13(2)(b); therefore an order for payment was granted in the sum sought at the time of making the Application.

Decision

The Tribunal granted an order for payment in the sum of £1,640.40 in favour of the Applicant.

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.

Helen Forbes

Legal Member/Chair

18th July 2019
Date