



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/19/1357

Re: Property at Rivehillock, Maud, Peterhead, AB42 5NX (“the Property”)

Parties:

Mr Ian Anderson, Mrs Laura Anderson, Moss side, Cuminestown, Turiff, AB53 5YL; Moss side, Cuminestown, Turriff, AB53 5YL (“the Applicants”)

Miss Kia Johnstone, Mr Kenneth McGovern, 7 Moss View, New Pitsligo, Fraserburgh, AB43 6FA (“the Respondents”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £1527 to the Applicants in relation to rent arrears and damages due by the Respondents.
2. The application contained:-
 - a copy of the tenancy agreement,
 - bank statements
 - copy of tenants’ notice to end tenancy
 - receipts for repairing/replacing damage items
 - rent account statement

3. The Applicants appeared for themselves. There was no appearance by the Respondents.
4. Notice of the Hearing had been served on the Respondents by sheriff officers on 31 May 2019. As I was satisfied that the Respondents had been served with notice of today's hearing, I was prepared to proceed with today's hearing in their absence.

Hearing

5. The Applicants referred me to the papers which had been lodged in support of the application, including the tenancy agreement, and rent account statement and the invoices for damages.
6. The Applicants advised that the Respondents had moved in 1 September 2018. They however stopped paying their rent and indicated that they wanted to leave the property as they were behind with their rent. The Respondents gave notice to leave the property, however then the date to leave came they continued residing at the Property but also continued not to pay any rent. The Applicants advised that they then served a notice to leave and went as far as raising proceedings for repossession; however the Respondents subsequently moved out on the 23 January 2019.
7. The Applicants referred me to the rental account which had been lodged and noted that there had only been two payments of rent in September and October 2018. Rent was due from 1 November 2018 until 23 January 2019. They amended the rent sum due on the account from £1942 to £1919. Rent arrears totalled £1919.00. This sum is still outstanding.
8. Their application notes that they had received the deposit for the Property and put this towards the rent arrears.
9. In terms of the damages claim they sought damages of £308. They advised that after the Respondents had moved out of the Property, they went in and found that the Respondents had removed the back bedroom door and the frame around the door was broken. These had to be replaced. They had removed curtains poles in the sitting room and kitchen. These had to be replaced. They had removed all the floor coverings in the Property and replaced the sitting room with an ill fitted one which had been chewed by the dog, and a piece of vinyl in the hall which did not cover all of the floor, there were no other floor coverings in the Property. There was evidence of dog urine on other floors. They advised that they had had to replace the floor coverings in every room. They had sought to do so as economically as possible. They sought damages for £308 in respect of these items. They provided invoices in support of the claim.

Findings in Fact

10. The Tribunal found the following facts to be established:
11. A tenancy agreement was entered into between the Applicants and the Respondents for the Property and existed between the parties. It was entered into on 1 September 2018.
12. Clause 8 in the tenancy agreement provided that monthly rent was £700 and the rent payment date was 1st of each month. Clause 7 of the tenancy agreement provided that monthly rent was due in advance.
13. That the rental statement showed amounts due each month, amounts received, and rent outstanding.
14. That the rental statement showed total rent arrears outstanding as at 23 January 2019 being £1919.
15. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.
16. That the deposit of £700 had been received by the Applicants from Safe deposits Scotland and put towards reducing the rent arrears.
17. That it appeared that the floor coverings in the Property had been removed.
18. That it appeared that there had been damages to the bedroom door and door frame in the Property.
19. That it appeared that three curtain poles in the Property had been removed.
20. Clause 17 requires the tenant to take reasonable care of the Property.
21. Clause 25 requires the tenant to repair or replace contents and which are damaged or removed, fair wear and tear accepted.

Reasons for Decision

22. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies.
23. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
24. There was no response or appearance from the Respondent but they had been notified of today's hearing.

25. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondents have failed to do so. There was submitted a rental statement showing the arrears due and additional information provided today by the Applicant's agent was that there had been no further payments towards the rent arrears and this was therefore the sum still outstanding. I do note that the Deposit had been retained by the Applicants and this sum has been deducted from the rent arrears.
26. The tenancy agreement also created obligations to take reasonable care of the Property, as items had been removed and either not replaced at all or replaced with items which were not satisfactory in themselves, I consider that the Respondents are in breach of those obligations. I therefore also find that the Applicants are entitled to the costs for replacing the items.
27. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued for.

Decision

I grant an order in favour of the Applicants for ONE THOUSAND FIVE HUNDRED AND TWENTY SEVEN POUNDS (£1,527.00) STERLING against the Respondents.

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.

Melanie Barbour

3.7.19

Legal Member/Chair

Date