



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/22/2700

Re: Property at 36 Coalhall Avenue, Motherwell, ML1 4BU (“the Property”)

Parties:

Misty Morning Property Ltd, Oak Cottage, Bridge Road, Colby, Aylsham, NR11 7EA (“the Applicant”)

Miss Claire McCusker, 36 Coalhall Avenue, Motherwell, ML1 4BU (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that that the application is granted and the Applicant is entitled to an order for payment from the Respondent for £5320 (FIVE THOUSND THREE HUNDRED AND TWENTY POUNDS)

Background

1. An application was received by the First Tier Housing and Property Chamber dated 4th August 2022. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments with an outstanding amount of £5320.
2. On 5th October 2022 all parties were written to with the date for the Case Management Discussion (“CMD”) of 16th November 2022 at 10am by teleconferencing. The letter also requested all written representations be submitted by 26th October 2022.

3. On 6th October 2022, sheriff officers served the letter with notice of the CMD date and documentation upon both of the Respondents personally. This was evidenced by Certificate of Intimation dated 6th October 2022.
4. This case was conjoined with FTS/HPC/EV/2692.

The Case Management Discussion ("CMD")

5. A CMD was held on 16th November 2022 at 10am by teleconferencing. The Applicant was not present but was represented by Ms Vikki McGuire, Lettings Manager, Jewel Homes. The Respondent was not present or represented.
6. Ms McGuire told the Tribunal that the Respondent moved out of the Property some weeks ago and has returned the keys. She left on 12th October 2022 and is now in local authority homeless accommodation. The arrears continued to increase until she left. The last payment was made in February 2022. The arrears were calculated on the date she left as being at £6548.39. Ms McGuire spoke to the Respondent on 21st October 2022. The Respondent said that she was content for the CMD to proceed. However, she has no disposable income to allow her to make payments to the arrears and was looking to the costs she would have in her new property once she had been moved from the homeless accommodation that she was in currently. The Respondent had also refused to give a forwarding address. The last payment was for £300 in February 2022.
7. The Tribunal was satisfied that the outstanding amount for £5320, detailed in the application, was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

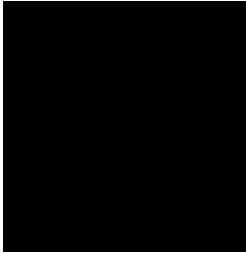
8. A Private Rented Tenancy Agreement commenced 7th November 2019.
9. The Respondent persistently failed to pay her rent charge of £560 per four weeks.
10. A rent statement for the period 16th August 2021 to 7th July 2022 was lodged with the application. This showed outstanding arrears of £5320.
11. The Respondent has failed to pay her rent charge. The arrears sought total £5320. Since the application was made the arrears have increased to £6548.39. The Respondent left the Property on 12th October 2022 and the arrears were calculated to this date.

Decision

12. The Tribunal found that the Applicant was entitled to be granted an order from the Respondent for payment for £5320.

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.



16th November 2022

Legal Member/Chair

Date