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/19/1699

Re: Property at 45 Summerhill Drive, Glasgow, G15 7JB ("the Property")

Parties:

Mr Harry Johal, 1/2, 52 Lawrence Street, Glasgow, G11 5HD ("the Applicant")

Mr William Cord Greig, 45 Summerhill Drive, Glasgow, G15 7JB ("the Respondent")

Tribunal Member:

Maurice O'Carroll (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 by the Respondent to the Applicant should be made in the sum of Two Thousand Seven Hundred and Forty Two Pounds (£2,742) Sterling

Background

1. A Case Management Discussion was held on 26 July 2019 in the Glasgow Tribunal Centre, 20 York Street, Glasgow at 11.30am. The Applicant appeared in person, along with his co-owner Mr Jonathan Jones. There was no appearance for the Respondent.

2. The Chairman had a copy execution of service served by Sheriff Officers on the Respondent carried out on 25 June 2019. No communication had been received by the Tribunal from the Respondent stating that he would not appear or providing any reasons for his non-appearance. In the circumstances, the Tribunal decided to proceed in the absence of the Respondent.

Discussion at the CMD

3. The Applicant addressed the Tribunal to confirm the details of the application which are reflected in the findings in fact below.

4. There was no update on the amount of outstanding rent since the original date of the application on 30 May 2019 for the reason that the necessary advance notice of any amended claim had not been served on the Respondent two weeks prior to the CMD as required by the Tribunal rules.

5. The sum sought by the Applicant was discussed during the CMD. The total sum applied for on 30 May 2019 was £3,382. This comprised £2,742 by way of arrears of rent and a further sum of £640 in respect of the deposit which had not been paid.

6. It was accepted by the Applicant that the deposit is a separate payment and does not constitute rent without the express agreement of the tenant in a lease. In any event, no deposit was actually paid. It therefore does not form part of the arrears which are recoverable as part of the present proceedings.

7. An Order for Repossession was granted by the Tribunal in favour of the Applicant in related proceedings on 27 June 2019.

Findings in fact

8. The parties entered in to a rental agreement in respect of the Property dated 3 September 2018 which was also the Date of Entry under the lease.

9. The rent due in terms of the rent agreement between the parties was £640 per calendar month.

10. No rent has been paid by the Respondent since 5 February 2019. The amount of rent arrears outstanding as at 30 May 2019, the date of the application was £2742.

11. No deposit was ever paid by the Respondent in terms of the rental agreement between the parties.
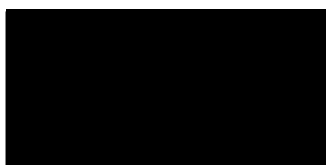
Outcome

12. The Chairman of the Tribunal was satisfied of the following:

  - The Respondent was notified of the CMD and the possibility that any decision which could be taken at a full hearing could also be made at the CMD
  - The amount now sought by way of rent arrears has been substantiated and is now properly due
  - No deposit was ever paid by the Respondent

- No interest was sought by the Applicant

Therefore the Tribunals grants the Order in the amount sought by 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.

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Legal Member/Chair

Date 26 July 2019