



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/19/2295

Re: Property at 97 Kincaidston Drive, Ayr, KA7 3XX (“the Property”)

Parties:

Jamie Stewart, 118 Overmills Road, Ayr, KA7 3LQ (“the Applicant”)

Miss Chelsey Dunlop, Mr Kristopher Rowan, 97 Kincaidston Drive, Ayr, KA7 3XX (“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 £1,480 to the Applicant in relation to rent arrears due by the Respondents.
2. The application contained:-
 - a copy of the tenancy agreement, and
 - rental statement
3. By way of email of 16 August 2019 the Applicant moved to amend the application in terms of rule 14A of the Tribunal Rules and seek an order for payment for the sum of £2,420. A copy of the Applicant’s email seeking to

amend the amount sued for and the updated rental statement was sent to the Respondents on 19 August 2019.

4. The Applicants' agent Ms Caldwell, from T C Young appeared on behalf of the Applicant. There was no appearance by the Respondents.
5. Notice of the Hearing had been served on the Respondents by sheriff officers on 15 August 2019. As I was satisfied that the Respondents had been served with notice of today's hearing and that they had also had notice of the amendment to the sum sued for in the application, I was therefore prepared to proceed with today's hearing in their absence. I was also prepared to amend the sum sought in respect of the application.

Hearing

6. The Applicants' agent referred me to the papers which had been lodged in support of the application, including the tenancy agreement, and rent account statement. There was submitted an updated rental statement. This application related to unpaid rent due in terms of that agreement. The Respondent had failed to make regular rental payments since 13 April 2019.
7. The Applicant's agent provided an updated rent account and advised that the current level of arrears were £2420. The last rental payment received was on around 13 April 2019 for £400.
8. The Applicants' agent advised that the rent arrears were still outstanding as at today's date. There had been no further payments towards the rent arrears by the Respondent other than as set out in the rental statement lodged by the application.

Findings in Fact

9. The Tribunal found the following facts to be established:
10. A tenancy agreement was entered into between the Applicant and the Respondent for the property and existed between the parties. It was entered into on 12 December 2018.
11. Clause 8 in the tenancy agreement provided that monthly rent was £470 and the rent payment date was 12th of each month. Clause 7 of the tenancy agreement provided that monthly rent was due in advance.
12. That the rental statement showed amounts due each month, amounts received, and rent outstanding.
13. That the rental statement showed total rent arrears outstanding as at 12 September 2019 being £2420.

14. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

Reasons for Decision

15. 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.

16. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.

17. There was no response or appearance from the Respondent but they had been notified of today's hearing.

18. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has 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.

19. 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 Applicant for TWO THOUSAND FOUR HUNDRED AND TWENTY POUNDS (£2,420) 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



24 September 2019

Legal Member/Chair

Date

