



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/18/2477

Re: Property at 31 GFF Octavia Street, Kirkcaldy, Fife, KY2 5HH (“the Property”)

Parties:

Mr Alister Winter, Mrs Donna Winter, 12 Allan Street, Leslie, Fife, KY6 3LA (“the Applicant”)

Mr Adam Robertson, 35 Kirkbank Road, Burntisland, KY3 9HZ (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision

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

This Application called as a Case Management Discussion at 11:30 am on 28 January 2019 at Fife Voluntary Action, 16 East Fergus Place, Kirkcaldy, KY1 1XT. The Applicants were both present. The Respondent was also present alongside his father, Mr Michael Robertson, who the Tribunal allowed to act as Mr Robertson’s supporter.

At the outset, the Applicants invited the Tribunal to make a Payment Order in the sum of £2,708.03. This figure, it was said, was made up of rent arrears to the value of £2,352.90 and also costs of £355.13 associated with having to evict the Respondent from the Property.

An up-to-date rent statement had been lodged with the Tribunal that appeared to demonstrate that at the date of eviction, rent arrears of £2,352.90 were lawfully due and remained unpaid.

At the Hearing, the Respondent candidly admitted that he did owe unpaid rent arrears and the sum claimed by the Applicants was probably accurate. The Tribunal therefore considered that it should make a Payment Order for this sum.

The Applicants also claimed £355.13 for costs associated with evicting the Respondent. After some discussion, the Applicants accepted that there was no provision in the tenancy agreement that would have appeared to entitle the Applicants to claim this sum. This head of claim had also not itself been set out in the Application.

The Tribunal considered that this was a cost associated with enforcing a previous decision of the Tribunal. The Tribunal did not consider that there was any basis to allow this sum to be recoverable in this Application. It was more like a professional expense associated with the related eviction process and no award of expenses had been ordered in that Application. The Tribunal decided that this head of claim would be refused.

The Tribunal therefore made a Payment Order in favour of the Applicants against the Respondent in the sum of £2,352.90.

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.

Mr Andrew McLaughlin

Legal Member/Chair

28/1/19

Date