



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/18/3030

Re: Property at 63 Cumberae Drive, Falkirk, FK1 4AQ (“the Property”)

Parties:

Mr Bill Newlands, Candie House, Avonbridge, Falkirk, FK1 2LE (“the Applicant”)

Belvoir Falkirk, 38 Vicar Street, Falkirk, FK1 1JB (“the Applicant’s Agent”)

Miss Allana Garai, c/o 36 Arthurs Drive, Stenhousemuir, FK5 4DS (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Five hundred and ten pounds and fifty one pence (£510.51) Sterling against the Respondent

Background

- 1 By application dated 9 November 2018 the Applicant sought an order for payment of outstanding rent arrears against the Respondent. In support of the application the Applicant submitted the following documents:-
 - a. Tenancy Agreement between the Applicant and Respondent dated 6 May 2017;
 - b. Statement of Rent Account from 1 January 2018 to 23 October 2018; and
 - c. Terms of Business between the Applicant and the Applicant’s Agent dated 1st November 2018.

- 2 By Notice of Acceptance of Application dated 30th November 2018, the Legal Member with delegated powers of the Chamber President intimated that there were no grounds for rejection of the application. A Case Management Discussion was therefore assigned for 14th January 2019.
- 3 A copy of the application together with supporting documentation and notification of the Case Management Discussion was served on each Respondent by Sheriff Officers on 20th December 2018.

The Case Management Discussion

- 4 The Case Management Discussion took place at STEP Stirling on 14th January 2019. Ms Gillian Inglis was present on behalf of the Applicant's Agent and on behalf of the Applicant.
- 5 The Applicant's Agent clarified that the tenancy had terminated on the 7 September 2018. She advised that the Respondent had raised no objection when the Applicant applied for the deposit in respect of the outstanding arrears. There had been no contact from her and no attempt to make payment. The Applicant therefore sought an order for payment.

Findings in Fact

- 6 The Applicant entered into a Tenancy Agreement with the Respondent dated 6 May 2017 in respect of the Property.
- 7 In terms of Clause Six of the said Tenancy Agreement the Respondent undertook to pay rent of £415 per calendar month.
- 8 The tenancy between the parties was terminated on 7 September 2018. As at the date of termination rent arrears in the sum of £925.51 were outstanding.
- 9 The Applicant received the deposit in full in the sum of £415 following application to the tenancy deposit scheme. The Respondent did not dispute the Applicant's claim in this regard. The deposit sum of £415 was applied to the arrears leaving an outstanding balance of £510.51.
- 10 The Respondent is liable for payment of the outstanding arrears in terms of Clause Six of the said Tenancy Agreement. The Respondent has refused or delayed in making payment of the sum due.

Reasons for Decision

- 11 Having considered the verbal and written representations from the Applicant the Tribunal was satisfied at the Case Management Discussion that it was able to make sufficient findings to determine the case without a hearing and that to do so would not be prejudicial to the interests of the parties. The

Tribunal was satisfied that the Respondent had received proper and reasonable notification of the Case Management Discussion by virtue of service of the papers by Sheriff Officers. She had not sought to dispute the terms of the application and had not taken the opportunity to attend the Case Management Discussion.

- 12 The Tribunal accepted based on its findings in fact that the sum of £510.51 is lawfully due by the Respondent by virtue of the terms of the Tenancy Agreement between the parties and the statement of account produced by the Applicant's Agent. The Tribunal accepted the submissions made by the Applicant's Agent at the Case Management Discussion in respect of the Respondent's failure to make payment. The Tribunal was therefore satisfied that the Respondent were due to pay the sums sought and determined to make an order for payment in the sum of £510.51.

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.

Ruth O'Hare

 Legal Member/Chair

14/1/19
Date