



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/19/3573

Re: Property at 164D Market Street, Aberdeen, AB11 5PP (“the Property”)

Parties:

Mrs Sheena Cooper, Countesswells House North, Bieldside, Aberdeen (“the Applicant”)

Mr Neil Traynor, 164D Market Street, Aberdeen, AB11 5PP (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £1800.00.

Background

1. By application dated 6 November 2019 the Applicant’s representatives Geraghty-Gibb Property Management, Aberdeen applied to the Tribunal for an order for payment in respect of alleged rent arrears. The Applicant’s representatives submitted a copy of the tenancy agreement, Notice to Leave with proof of posting and receipt, Section 11 Notice, Home Report and a rent statement in support of the application.
2. By Notice of Acceptance dated 23 December 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.
3. Intimation of the Case Management Discussion was given to the Applicant’s representatives by post on 6 January 2020 and to the Respondent by Sheriff Officers on 7 January 2020.

The Case Management Discussion

4. A Case Management discussion was held at Aberdeen Sheriff Court on 4 February 2020. The Applicant did not attend but was represented by Mrs Marlene Leiper of the Applicant's representatives. The Respondent did not attend and was not represented. The Tribunal being satisfied that proper intimation of the Case Management Discussion having been given to the Respondent determined to proceed in his absence.
5. Mrs Leiper explained that the Respondent had returned the keys to the property on 3 February 2020. An outgoing inspection of the property had been carried out and it was confirmed that the Respondent had removed his clothes and all of his personal belongings from the property.
6. Mrs Leiper referred the Tribunal to the rent statement submitted with the application that showed that the Respondent had accrued rent arrears of £600.00 up to August 2019 and had then failed to make any payments of the rent which was £400.00 per month for September, October or November. The rent due at the date of the application was £1800.00. Mrs Leiper went on to say that the Respondent had failed to make any payments since that time and the rent now due was £3000.00.
7. The Tribunal queried whether any application to amend the sum claimed had been intimated to the Respondent and the Tribunal. Mrs Leiper referred the Tribunal to the wording of the application that sought the full amount due at the date of the hearing. The Tribunal indicated that did not specify an exact amount that would be clear to the Respondent and that the sum mentioned in the application was £1800.00 therefore in the absence of any amendment that would be the maximum that would be awarded. It would be open to the applicant to seek to continue the application if she wished in order to amend the sum claimed. Mrs Leiper indicated that she did not wish to amend and asked the Tribunal to grant an order for payment in the sum of £1800.00.

Findings in Fact

8. The parties entered into a Private Residential tenancy Agreement that commenced on 1 April 2019 at a rent of £400.00 per calendar month.
9. The Respondent accrued rent arrears amounting to £1800.00 as at 1 November 2019.

Reasons for decision

10. The Tribunal was satisfied from the documents produced and the oral submissions of Mrs Leiper that there was a tenancy agreement in place between the parties whereby the Respondent was obliged to pay the Applicant rent at the rate of £400.00 per calendar month.

11. The Tribunal was satisfied from the documents produced and from the oral submissions that the Respondent had accrued rent arrears as at 1 November 2019 of £1800.00 and had made no further payments since that time. The Applicant was therefore entitled to an order for payment in the sum of £1800.00.

Decision

12. The Tribunal finds the Applicant entitled to an order for payment by the Respondent in the sum of £1800.00.

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.

Graham Harding

Legal Member/Chair

4 February 2020

Date