



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/19/3597

Property: 61 Spalding Crescent, Dalkeith, Midlothian EH22 2AX

Parties:

Mohammed Yasir Arafat Bin Abbas, residing at 31A North Bridge Street, Bathgate, West Lothian EH48 4PJ (“the Applicant”)

John Davidson and Naimh Grealis residing together at 61 Spalding Crescent, Dalkeith, Midlothian EH22 2AX (“the Respondents”)

Tribunal Members:

Paul Doyle (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be made.

Background

The Applicant sought an order for payment of rental arrears totalling £2,275.00. The Applicant had lodged with the Tribunal Form F. The documents produced were a Private residential tenancy agreement dated 3 September 2018 and a notice to leave dated 2 October 2019, a Notice in terms of Section 11 of the Homelessness Etc. (Scotland) Act 2003 served on 6 November 2019, and a schedule of unpaid rental. A copy title sheet was lodged with the Tribunal which showed that the applicant is the heritable proprietor of the Property.

Case Management Discussion

A case management discussion took place before the Tribunal at 2.00pm on 20 February 2020 at Riverside House, Gorgie Road, Edinburgh. The Applicant was represented by Ms K Donnelly of Bannatyne Kirkwood France, solicitors. The respondents were present but were not represented. The time date and place of the

case management discussion had been intimated to both respondents by Sheriff Officers on 16 January 2020.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent entered into a Tenancy Agreement for the Property dated 3 September 2018. In terms of clause 8 of the tenancy agreement the respondents agreed to pay rental at the rate of £675.00 per month.
2. The respondents have not made a full payment of rental since 3 May 2019. At the date of application there were arrears of rent totalling £2,275.00. At 7 January 2020 the rent arrears totalled £3,625.00. At today's date there are rent arrears totalling £4,000.00
3. On 2 October 2019 the applicant served a notice to leave on each respondent in terms of s.50 of the Private Housing (Tenancies) (Scotland) Act 2016. On 6 November 2019 the applicant submitted his application to the tribunal.
4. On 7 January 2020 the applicant intimated an application to amend the sum claimed by increasing the sum applied for from £2,275.00 to £3,625.00 in terms of rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The applicant's representative now revises that amendment to a figure of £4,000.00. That application is unopposed.
5. The application was amended so that the sum applied for is £4,000.00.
6. The monthly rent is £675.00. The respondents have not made a full payment of rent since 3 May 2019, so that at the date of application there were 6 months arrears of rental. At today's date rental payments are 10 months in arrears, which total £4,000.
7. The respondents accept that £4,000.00 is the correct figure for arrears of rental. At the case management discussion on 20 February 2020 the respondents offered no resistance to the application for a payment order but made an application for time to pay. They offer instalments of £150.00 per week.
8. On 24 February 2020 the applicant accepted the respondents offer to pay the sum due by instalments of £150.00 per week. He asks that the payments should be made directly into his own bank account by BACS transfer.
9. A case management discussion had been fixed for 20 March 2020 to consider the application for a time to pay order. The application for a time to pay order is not opposed. There is no need for a further case management discussion, so that the hearing fixed for 20 March 2020 is discharged.

10. For the foregoing reasons, the Tribunal determined to make an Order for payment subject to time to pay directions. The Tribunal makes an order for payment of £4,000.00 together with interest at 8% per annum from 2 March 2020 until final payment. Said sums to be paid by instalments of £150.00 per week.

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.

P.Doyle

Legal Member

Date

2 March 2020