



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/21/2683

Re: Property at 6 Broomhill Court, Larkhall, ML9 1QE (“the Property”)

Parties:

Mr David Blake, 26 Church Street, Larkhall, ML9 1HE (“the Applicant”)

Mr Andrew McGeady, c/o 21 Arran Road, Motherwell, ML1 3NA (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £4930.80 be made to the Applicant from the Respondent.

Background

1. This was a hearing to consider an application made by the Applicant for payment of rent arrears from the Respondent in relation to a lease entered between the Applicant and the Respondent.
2. The Applicant is the joint owner and landlord of the Property and with the application a copy of the tenancy agreement which commenced on 22nd May 2019 was lodged along with a copy of the rent statement showing a sum due of £5,480.80 which is the sum originally claimed by the Applicant. In addition various letters were lodged addressed to the Respondent regarding the arrears, along with a copy of the Notice to Leave dated 29th January and specifying a date of 1st August to leave.
3. In response to a direction sent to the Applicant to clarify when the tenancy ended, and what happened to the deposit, the Applicant’s representative Ms Heather Laurie responded on 13th April advising that the tenancy had ended on 1st August 2021 and that the full deposit was being claimed for

arrears but that this was still with the tenancy deposit scheme. If received she advised this would be put toward the arrears of rent and would reduce the balance due.

4. The application and accompanying papers were served on the Respondent by sheriff officer on 9th March 2022 and he wrote to the Tribunal administration by e-mail on 7th April to advise that the address used and stated above was a mailing address only as he did doesn't stay there but he does not have a fixed address. He also confirmed that he was happy for his e-mail address to be used and that he knew the date of the hearing (CMD) was 27th April 2022 at 10am.
5. The Respondent also sent a further e-mail advising that he "left the property in March 2021" and mentioning that if the letting agents had done the job right they would know this.
6. The CMD took place on 27th April 2022. Ms Laurie attended on behalf of Frist Stop Properties Ltd the letting agent, for the Applicant, but the respondent did not attend nor was he represented. At the CMD it was decided a hearing would be needed because the Respondent had indicated in writing that he believed the tenancy had ended in March 2021 and not 1st August 2021 when the Applicant alleged it ended. The date when the tenancy ended was important to establish what rent was due and what was outstanding. The parties were both sent a direction asking for further information and in the Respondent's case asking for his views on the rent outstanding and when the tenancy ended.

The Hearing

7. The hearing proceeded today by teleconference and Ms Laurie attended as the representative and only witness for the Applicant. The Respondent did not attend although the Tribunal waited another 10 minutes to see if he was going to call in but as he had been advised of the date and time of the Hearing by e-mail the legal member confirmed it would be appropriate to proceed in his absence and made introductions and advised on the purpose and order of proceedings.
8. The Tribunal invited Ms Laurie to explain what she was seeking and why. She advised that she was a property manager with the Landlord's letting agent First Stop Properties Ltd and along with a colleague had dealt with this tenancy. She confirmed that the Applicant had rented the Property to Mr McGeady and that he fell into arrears of rent on or around October 2019. The Applicant's letting agent had served a notice to leave in January 2021 with an end date of 1st August 2021. She confirmed that the arrears, as per her latest statement that she lodged on 14th July 2022, were £4,930.80 being the arrears of rent to 1st August 2021 less the sum of £550 which was the deposit which they had successfully reclaimed from the deposit company. She confirmed the tenant had not opposed the claim for the deposit by the landlord.
9. With regard to when the lease ended Ms Laurie confirmed that the letting agent last heard from the Respondent on 12th April 2021 when he advised by e-mail that he was waiting on a payment from housing benefit to be processed. Ms Laurie has lodged various letters seeking payment and offering support with her application and the e-mail response of 12th April

is included it states “Hey Angela, Just off the phone to the house benefits there. They didn’t process the house bank details and that’s it done now so will be done in the 20th of this month.”

10. Ms Laurie advised that the letting agent did not receive any payment from housing benefit direct which they tried to claim nor from the tenant and confirmed there has been no further communication from the tenant. That e-mail was their last contact with him.
11. Ms Laurie advised that they were not advised he had left in March and, and that the letting agent had attended for inspections in April 2021 and an electrical inspection had been carried out in May 2021 and on both occasions the Respondents possessions were there and it had looked like there was someone living there..
12. Ms Laurie advised that when they attended on 1st August when the Notice to leave had expired the Property was completely empty and that is when they believe the tenancy ended.

Facts Agreed

1. The parties entered into a lease of the Property which commenced on 22nd May 2019.
2. The Rent due in terms of the lease is £550 per calendar month payable in advance
3. The Applicant’s letting agent served a Notice to Leave on 29th January 2021 specifying the 1st August 2021 as the date the landlord expects to be entitled to make an application to the Tribunal for an order of eviction.
4. The Respondent has ceased to occupy the Property by 1st August 2021.
5. The Tenancy ended on 1st August 2021.
6. The rent outstanding at the date of the application was £5,480.80
7. The Applicant successfully reclaimed the deposit and the rent outstanding at the end of the tenancy after deduction of the deposit is £4,930.80

• Reasons for Decision

8. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £550 per month in rent.
9. The Respondent has failed to pay the full rent due. Rent fell into arrears from October 2019 and from November 2020 the Applicant alleges that the Respondent has paid no further rent.
10. The Respondent has not attended the CMD or this hearing but indicated in writing that he left the Property in March 2021. This is not supported by the evidence of Ms Laurie who was managing the Property on behalf of the letting agent and who has lodged evidence in the form of an e-mail that the tenant was still in the Property in April when he advised he was trying to sort out a benefit payment. She confirmed that the Applicant has not received any further payments from the Respondent nor has the Applicant or the letting agent heard anything further from the Respondent. She advised that from inspections carried it out in April and May there was still evidence of the Respondent being in possession of the Property and she has lodged various letters sent by the letting agent to the Respondent at the Property address

advising of the arrears and offering advice on where to find support. These letters continue into July 2021.

11. The Tribunal accepts the written evidence and verbal statements made by the Applicant's representative, who the Tribunal found clear and credible in her evidence that the rent outstanding as of 1st August 2021 amounts to £4930.80 after deduction of the deposit of £550. The Respondent has been invited to confirm when and how the tenancy ended and whether he gave notice to end the tenancy earlier than the date specified in the Notice to Leave. He has not responded to that direction nor advised if he agrees or disagrees with the rent claimed. In the absence of any further representations from the Respondent the Tribunal finds that the tenancy ended on 1st August when the tenant was no longer occupying the Property. The sum outstanding as at the end of the tenancy is £4,930.80.
12. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

- **Decision**

An order for payment of the sum of £4930.80 is granted.

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.

Jan Todd

28July2022

Legal Member/Chair

Date