



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/19/2222

Re: Property at 34 Pine Court, Cumbernauld, G67 3AY (“the Property”)

Parties:

Ms Julia Fielden, 2a Westmount Park, Newtownards, Co Down, BT23 4BP (“the Applicant”)

Ms Alison Thompson, Ms Ellie Thompson, 34 Pine Court, Cumbernauld, G67 3AY (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondents)

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

1. Background
2. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £1,891.50 to the Applicant in relation to rent arrears due by the Respondents together with expenses and interest.
3. The application contained:-
 - a copy of the tenancy agreement, and
 - rental statement
4. On 3 October 2019 Ms Allison, from Anderson Strathern Solicitors appeared on behalf of the Applicant. There was no appearance by the Respondents. As

I was satisfied that the Respondents had been served with notice of that hearing; and it appeared that the Respondents owed the sum sued for. I granted an order for payment of that sum. The Applicant was no longer seeking interests or expenses.

5. Following the issue of the written decision, it came to the Tribunal's attention, that the first Respondent had submitted written representations prior to the case management discussion; however, these written representations had not been passed to myself, as the legal member at, or before, the case management discussion. These written representations had not therefore been taken into account by me when coming to my decision. Rule 39 of the Schedule to the 2017 Regulations states that the Tribunal may at its own instance review a decision made by it where it is necessary in the interests of justice to do so. I was satisfied that, as I had not been in a position, in arriving at my decision, to take into account the written representations from the Respondents, the interests of justice required me to review the decision I had made at the Case Management Discussion. After considering the terms of the written representations I recalled the Orders for Eviction and Payment and continued consideration of both cases to today's Case Management Discussion. Reference is made to the terms of those written review decisions.
6. At today's Case Management Discussion, Mr Ritchie, from Messrs Anderson Strathern appeared on behalf of the Applicant. Ms Alison Thompson, the first Respondent also appeared. She advised that the second Respondent, Ms Ellie Thompson no longer lived at the property and she would not be attending today.
7. Hearing
8. The Applicant's representative provided an up-to-date rent account. He advised that the current level of arrears were £1945.25 and he was seeking this amended sum in any payment order granted.
9. He advised that the only payments which had been made to the rent account had been the universal credit payments, and there had been no other additional payments received towards the top up payment for the balance of rent or the arrears.
10. He advised that he was moving for the order for payment to be granted today.
11. Ms Thompson advised that she had received a letter about her application for discretionary housing benefit. She advised that there would be a total payment of discretionary housing benefit of £167 (for the period from around the beginning of October 2019 until mid-January 2020). She advised that she would have to re-apply for it in the third week of January 2020. I referred Ms Thompson to her email of 2 October 2019 when she stated that, "*as of this month I will have an extra £127 per month on my universal credit ... I can offer to pay 200 on the 27th of every month towards the arrears that have built up.*" She made reference to this offer again in her further email of 25 October 2019. I asked her if she had made any payments towards the top

up rent or the arrears. She advised that she had not done so; however she indicated that money was still being deducted from her universal credit, but that these deductions would be coming to an end this month. She could start making the payments on 27 December 2019. Further, she could pay £100 just now. She advised that she had spoken to the letting agents and they were happy to enter into an arrangement with her; however she was waiting for them to contact her about making repayments.

12. The Applicant's agent advised that the rent arrears were still outstanding as at today's date. He advised that the Respondents had made a number of previous offers however she had not adhered to them. On that basis he was seeking the order for payment today.

13. Findings in Fact

14. The Tribunal found the following facts to be established:

15. A tenancy agreement was entered into between the Applicant and the Respondent for the property and existed between the parties. It was entered into on 28 February 2019.

16. Clause 8 in the tenancy agreement provided that monthly rent was £550 and the rent payment date was 5th of each month.

17. That the rental statement showed amounts due each month, amounts received, and rent outstanding.

18. That the updated rental statement lodged with the application showed total rent arrears outstanding as at 5 November 2019 being £1,945.25.

19. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

20. Reasons for Decision

21. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies.

22. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.

23. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondents have failed to do so. There was submitted an updated rental statement showing the arrears due and additional information provided today by the Applicant's agent was that there had been no further payments towards the rent arrears. The respondent had made an offer in October 2019 to start paying the arrears but she had failed to do so.

24. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the amended sum sued for.

25. Decision

26. I grant an order in favour of the Applicant for ONE THOUSAND NINE HUNDRED AND FORTY FIVE ONE POUNDS TWENTY FIVE PENCE (£1,945.25) STERLING against the Respondents.

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.

Melanie Barbour

6.12.19

Legal Member/Chair

Date