

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/0021

Re: Property at 44 Maberly Street, Aberdeen, AB25 1NB (“the Property”)

Parties:

KA and JD Macpherson, 13 Ardbeck Place, Peterculter, AB14 0ST (“the Applicant”)

Miss Nicole Shaw, whose current address is unknown (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

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

Background

This Application called for a Case Management Discussion on 20th May 2019 along with Applications HPC/CV/19/0020 and HPC/EV/19/0782.

The Applicant Kenneth MacPherson was present at the Case Management Discussion and represented both Applicants.

In respect of this Application and HPC/CV/19/0020 service of the applications on the Respondent had been effected by way of advertisement on the Housing and Property Chamber website, in terms of Rule 6A of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Amendment Regulations 2018, the Tribunal having accepted the advertisement request. The Tribunal had certificates of Service by advertisement and was satisfied that this Application could be deemed to be served on the Respondent.

The Applicant requested that the Case Management Discussion continue in the absence of the Respondent and the Tribunal was prepared to proceed in her absence in terms of Rule 29 of the Tribunal Rules of Procedure.

The Tribunal had an Application, signed tenancy agreement, a series of emails and copy photographs.

The Applicant was initially seeking a payment order on 3 Heads of claim being rent arrears, unpaid deposit and damage caused to the property which was said to be referable to the Respondent.

The Applicant requested to increase the amount being sought in respect of unpaid rent but after discussion withdrew that request to allow him to consider whether the bring another application for any remaining rent in the future.

As far as damage to the property was concerned the true cost of this has yet to be determined by the Applicant and again after discussion the Applicant requested that this Head of Claim not be considered within his Application to allow him to submit a further application in the future if he wished to when the full cost of any repairs were known to him, as although he believed the Respondent had left the property she had not done this with his knowledge or agreement.

This left for consideration in this application the question of unpaid rent and deposit.

The Applicant advised that he had entered into a Private Residential Tenancy agreement with the Respondent with effect from 27th September 2018. The rent agreed was £900 per month and was to be paid in arrears. A deposit of £450 was to be paid by the Respondent.

The amount being requested covered unpaid rent for October, November, December, all in 2018, January 2019 and part of February 2019 up to the point at which the Applicant had applied to the Tribunal. The total being requested was £4050.

The Applicant understood that the Respondent's rent was to come from Aberdeen City Council by way of benefit payments which he said was the reason he agreed to accept payment in arrears. He understood that the benefit was paid to the Applicant who was to pay the rent direct to him. At no time had he received any money by way of deposit or rent from the Respondent. At no time did she indicate there was any issue in receiving benefit or any delay in payment of benefit to her.

After discussion on the issue of what constituted a deposit the Applicant indicated that he would not be seeking payment for the deposit which had not been paid.

Findings in Fact

The Applicants and Respondent entered into a Private Residential Tenancy at the property with effect from 27 September 2018.

The rent to be paid in arrears was £900 per month.

The Respondent was to pay the Applicants rent by means of benefit paid directly to her.

No payments were made by the Respondent to the Applicant in respect of rent at any time.

The failure to pay was not due to any delay in the payment of benefit to the Respondent to the knowledge of the Applicants.

Reasons for Decision

The Respondent failed to pay any rent for the property to the Applicants and this failure does not relate to any delay in payment of a relevant benefit. The sum of £4050 in rent is lawfully due to the Applicants by the Respondent. It is reasonable to make a payment order for this sum.

Decision

The Tribunal makes a payment order in the sum of £4050 against the Respondent in favour of the Applicants.

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.

V Bremner

Legal Member/Chair

20 May 2019

Date