



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/19/0334

Re: Property at 62 Ravelston St, Carntyne, Glasgow, G32 6DH (“the Property”)

Parties:

Mr Martin Deeney, Mrs Anne Deeney, 25 Netherauldhouse Rd, Glasgow, G43 2XG (“the Applicants”)

Miss Dawn Grey, Mr Liam Gilmartin, formerly residing at 62 Ravelston St, Carntyne, Glasgow, G32 6DH (“the Respondents”)

Tribunal Members:

Sarah O’Neill (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondents of the sum of £4198.88 should be granted in favour of the applicants.

Background

An application was received on 31 January 2019 seeking a payment order brought in terms of rule 111 (Application for civil proceedings in relation to an assured tenancy under the Housing (Scotland) Act 1988) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).

The applicants were seeking payment of outstanding rent arrears of £2098.88 from the respondents in relation to the property, being the amount of arrears outstanding as at 29 January 2019.

The application included copies of the tenancy agreement; a copy of the Notice to Leave sent to the respondents dated 14 December 2018, and a rent statement showing the rent arrears outstanding as at 29 January 2019 as £2098.88.

A case management discussion (CMD) was arranged for 5 April 2019, but this was cancelled as sheriff officers instructed by the tribunal were unable to serve the notification paperwork on the respondents. The sheriff officers reported that a neighbour had advised that the respondents had moved out of the property around two weeks previously.

A further CMD was then arranged for 29 May 2019, and the respondents were cited to attend the CMD by advertisement in terms of rule 6A of the 2017 rules. The tribunal had before it a certificate of service by advertisement, stating that service by advertisement had been carried out on the tribunal's website between 26 April and 28 May 2019. An email had also been sent by the tribunal to each respondent on 24 April 2019, informing them about the application and that details were to be made available on the tribunal's website. The tribunal was therefore satisfied that the respondents had lawful notice of the proceedings.

An updated rent statement had been received from the applicants on 22 March 2019, together with a request to amend the amount claimed to £3269.70. This was the level of arrears outstanding as at 5 April 2019. A further updated rent statement was received from the applicants on 14 May, showing the outstanding arrears due as at 29 May 2019 to be £4198.88.

The case management discussion

The postponed case management discussion was held on 29 May 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicants were both present and represented themselves. The respondents were not present or represented. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a case management discussion had been duly complied with. The tribunal delayed the start of the discussion by 15 minutes, in case the respondents had been detained. They did not appear, however, and no telephone calls or messages had been received from him. The tribunal therefore proceeded with the case management discussion in the absence of the respondents.

Findings in Fact

- The tribunal was satisfied that there was a valid private residential tenancy in place between the parties.
- As at 29 May 2019, the respondents owed the applicants the sum of £4198.88 in rental payments.

Reasons for Decision

Having considered the terms of the private residential tenancy agreement, and the various copy rent statements provided, the tribunal was satisfied that these confirmed an outstanding balance of rent arrears as at 29 May 2019 in the sum of £4198.88. The tribunal noted that no tenancy deposit had been payable under the tenancy agreement.

It then considered whether to amend the sum claimed as had been requested. It noted that the amendment request of 22 March 2019 had been notified to the respondents as part of the paperwork served by advertisement. It considered whether the amendment request to increase the sum claimed dated 14 May 2019 should be agreed. The tribunal noted that the applicants had notified the amendment at least 14 days prior to the CMD, in terms of rule 14A of the 2017 rules. Mrs Deeney told the tribunal that she had written to both respondents by email advising them of the up to date arrears claimed, and the tribunal accepted this evidence.

In the absence of any appearance by, or written representations from the respondents, the tribunal decided to make an order for payment by the respondents to the applicants of the sum sought.

Decision

The tribunal grants an order for payment by the respondents to the applicants for the sum of £4198.88.

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.

S O'Neill

Legal Member/Chair

29/5/19

Date