



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/19/1530

Re: Property at 8 Green Acres, Perth Airport, Scone, PH2 6AZ (“the Property”)

Parties:

Morris Leslie Limited, Errol Airfield, Errol, Perth, PH2 7TB (“the Applicant”)

Mr Ryan Lochran, 8 Green Acres, Perth Airport, Scone, PH2 6AZ (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

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

This is an application for a payment order dated 16th May 2019 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant originally sought in its application payment of arrears in rental payments of £4,000.00 as at the date of the application, but amended this figure in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended to £4,729.51, which would be the sum due by the date of the Case Management Discussion, by letter to the Tribunal of 26th June 2019 which was intimated to the Respondent.

The Applicant provided with its application copies of the private residential tenancy agreement and rent arrears statement. Thereafter, with its amendment of the sum sought on 26th June 2019, it provided an updated rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 7th June 2019, and I was provided with the execution of service.

The Tribunal had noted that the application form designated the Respondent's surname as "Lochran", whereas the correct spelling is "Lochrane". The Applicant also amended its application to change the Respondent's surname to "Lochrane" in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, by letter to the Tribunal of 7th June 2019 which was intimated to the Respondent.

Case Management Discussion

A Case Management Discussion was held on 16th July 2019 at The Inveralmond Business Centre, Auld Bond Road, Perth PH1 3FX. The Applicant did not appear, but was represented by Mrs McCartney, solicitor. The Respondent did not appear, nor was he represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

Mrs McCartney advised the Tribunal that the Respondent had quit the property on 2nd July 2019, and that the Applicant had regained possession of the Property thereafter. As a result, rent was only due until 2nd July 2019 and not to today's date. She provided a further updated rent arrears statement to 2nd July 2019 confirming that rent arrears total £4,500.00 to that date.

Mrs McCartney invited the Tribunal with reference to the application and papers to grant an order for payment of the sum of £4,500.00, which is the amount of rent arrears outstanding.

Monthly rent of £500.00 is due to be paid on the 3rd day of each month in terms of clause 7 of the private residential tenancy agreement. No payment has been received from the Respondent in respect of the rental payments due for the last nine months of the tenancy agreement.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

"First-tier Tribunal's jurisdiction

(1) In relation to civil proceedings arising from a private residential tenancy—

- (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
(b) a sheriff does not have competence or jurisdiction.
(2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
(a) the prosecution of a criminal offence,
(b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the copy updated rent arrears statement provided, and the submissions made by Mrs McCartney, and was satisfied that these disclosed an outstanding balance of rent arrears in the sum sought of £4,500.00.

Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £4,500.00.

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.

Neil Kinnear

Legal Member/Chair

16/07/19

Date