



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/2584

Re: Property at 165 Livingstone Drive, East Kilbride, G75 0AD (“the Property”)

Parties:

Mr Stuart Greer, 27 Pine Tree Road, Banchory, Kincardineshire, AB31 5JA (“the Applicant”)

Miss Gayle Blaney, 24 Roseneath Gate, East Kilbride, G74 1DP (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal 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 by the respondent of the sum of £1884.18 should be granted in favour of the applicant.

Background

1. An application was received on 15 August 2019 from the applicant’s representative for a payment order brought in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).
2. The applicant was seeking payment of rent arrears of £1938.68 from the respondent in relation to the property, being the amount of arrears outstanding up until 15 July 2019.
3. The application included a copy of the tenancy agreement and a rent statement showing the rent outstanding up until 15 July 2019 to be £1938.68.

4. The tribunal instructed sheriff officers to serve notice of a case management discussion (CMD) scheduled for 22 October 2019, together with the application papers and guidance notes, on the respondent at the forwarding address provided by the applicant's representative. A certificate of service was received from the sheriff officers confirming that the papers had been served on the respondent on 13 September 2019.
5. No written representations or time to pay application were received from the respondent prior to the CMD. An email was received from a money adviser at South Lanarkshire Council on 3 October 2019, confirming that she was assisting the respondent with various financial issues. She was advised by the tribunal administration that any discussion about repayment arrangements would need to be made with the applicant. The money adviser informed the tribunal on 14 October that she was not acting as a representative for the respondent in relation to the application.

The Case Management Discussion

6. A case management discussion (CMD) was held on 22 October 2019 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was represented by Ms Yvonne Moncur, Lettings Manager, and Ms Kristy Fulton, Tenancy Manager, of the Property Store, East Kilbride. The respondent was not present and was not represented.
7. 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 CMD had been duly complied with. The tribunal delayed the start of the CMD by 10 minutes, in case the respondent had been detained. She did not appear, however, and no telephone calls, messages or emails had been received from her. The tribunal therefore proceeded with the CMD in the absence of the respondent.
8. Ms Moncur and Ms Fulton told the tribunal that the tenant had left the property on 15 July 2019. They referred the tribunal to an updated rent statement dated 2 September 2019. This showed that the respondent had not paid any rent since March 2019, and confirmed that no payments had been made towards the outstanding balance since the application was submitted. They also confirmed that they had not been contacted by the respondent or her money adviser regarding the arrears.
9. The tribunal chairperson noted that there was provision in paragraph 11 of the tenancy agreement for a deposit of £695 to be paid by the respondent to the applicant. She asked what had happened to the deposit money at the end of the tenancy. Ms Moncur and Ms Fulton confirmed that the applicant had claimed the full deposit from SafeDeposits Scotland in respect of rent arrears, damages, cleaning and clearing items left behind. They produced an email

from SafeDeposits Scotland, confirming that the full deposit had been paid to the applicant.

10. They also produced three invoices totalling £640.50 for cleaning, clearance and home improvement works at the property. This left a balance of £54.50 from the deposit sum which had been put towards the rent arrears. The updated rent statement therefore showed a balance due by the respondent of £1884.18. They confirmed that the applicant therefore sought an order for this sum.

Findings in Fact

11. The tribunal made the following findings in fact:

- The tribunal was satisfied that there was a private residential tenancy in place between the parties, which had commenced on 12 February 2018.
- The applicant was the landlord in terms of the private residential tenancy agreement between the parties. The title deed for the property showed that he owned the property jointly with Ms Veronika Slukova. The applicant's representatives confirmed to the tribunal that Ms Slukova was aware of the proceedings.
- The respondent left the property on or around 15 July 2019.
- The rent due under the tenancy agreement was £595 per calendar month payable in advance on the 12th of each month.
- As at 15 July, the respondent owed the applicant the sum of £1938.68 in rental payments.
- The full deposit of £695 paid by the respondent to the applicant had been returned to the applicant by the approved tenancy deposit scheme. Most of this had been used to pay for damages, cleaning and clearance of the house. The remaining balance of £54.50 had been set against the outstanding rent arrears due by the respondent to the applicant.

Reasons for Decision

12. Having considered the updated rent statement, the tribunal noted that, taking into account the deposit repayment, this confirmed an outstanding balance of rent arrears up to and including 15 July 2019 in the sum of £1884.18. Having considered the updated rent statement, invoices and tenancy deposit scheme information produced by the applicant's representative at the hearing, the tribunal was satisfied that the respondent was due to pay this amount to the applicant. The tribunal therefore decided to make an order for payment by the respondent to the applicant of that sum.

Decision

The tribunal grants an order for payment by the respondent to the applicant for the sum of £1884.18.

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.

Sarah O'Neill

Legal Member/Chair

22/10/19

Date