

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/18/2377

Re: Property at 177 Woodend Walk, West Lothian, WH48 3QP (“the Property”)

Parties:

Mr Robert Moore, 4 Traprain Crescent, West Lothian, EH48 2BA (“the Applicant”)

Mrs Shirley Ann Matthew, 11 Craigseaton, Broxburn, West Lothian, EH52 6BA (“the Respondent”)

Tribunal Members:

George Clark (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided that the application should be granted without a hearing and made an Order for Payment by the Respondent to the Applicant of the sum of £553.88.

Background

By application, received by the Tribunal on 14 September 2018, the Applicant sought an Order for Payment by the Respondent to the Applicant of the sum of £578.88. The sum sought related to the Respondent’s tenancy of 177 Woodend Walk, Armadale, West Lothian (“the Property”). The Respondent had vacated the Property on 12 July 2018. The application was accompanied by a rent statement showing arrears of rent outstanding as at 12 July 2018 of £410.88 and by Invoices in respect of grass cutting and hedge trimming (£60), replacement of locks (£30), supply and fitting of 2 smoke detectors (£60), emptying of the Property, disposal of rubbish and items left by the Respondent (£180), deep cleaning (£90), painting (£118, including materials) and a sheriff officer’s fee for tracing the Respondent (£30). The Respondent had paid a deposit of £425, which had been refunded to the Applicant and set-off against the arrears of rent and costs incurred.

The application was also accompanied by a copy of a Short Assured Tenancy Agreement between the parties, commencing on 7 November 2016 and ending on 7 May 2017 and, if not brought to an end on that date, continuing on a monthly basis until ended by either party giving 2 months' notice to the other party. The rent was £425 per month, with a deposit of £425.

On 8 November 2018, the Tribunal advised the Parties of the date, time and venue of a Case Management Discussion and the Respondent was invited to make written representations by 26 November 2018. The Respondent made no written representations to the Tribunal.

The Case Management Discussion

A Case Management Discussion was held at Riverside House, 502 Gorgie Road, Edinburgh on the morning of 29 November 2018. The Applicant was represented by Isla Maree Deary, letting agent with Lothian Homes 4 Let, Unit 2, Linbar House, 48c North Bridge Street, Bathgate. The Respondent was not present or represented at the Case Management Discussion.

The Applicant's representative told the Tribunal that the Respondent had vacated the Property without giving notice and the deposit did not cover the costs incurred by the Applicant as a consequence of the condition in which the Property had been left and the arrears of rent.

On closer examination of the figures, it appeared to the Tribunal that the sum sought in the application (£578.88) was greater than the sum due, in that the outstanding rent and costs as itemised in the Background paragraph above amounted to £978.88 and, deducting the deposit of £425, the amount due was £553.88. The Applicant's representative agreed with those calculations.

Reasons for Decision

Rule 17 of the Schedule to the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may do anything at a Case Management Discussion which it may do at a hearing, including making a decision. The Tribunal was satisfied that it had before it all the information and documentation it required and, in the absence of any representations from the Respondent, determined to decide the application without a hearing.

The Tribunal was satisfied that the sum sought (amended downwards to £553.88) is lawfully due by the Respondent in terms of the arrears of rent, established by the rent statement seen by the Tribunal, and the Applicant's contention that the Respondent had failed to fulfil the obligations in her lease to dispose of all rubbish and to take reasonable care of the Property and her obligation to give 2 months' notice of termination.

Decision

The Tribunal decided to grant the application without a hearing and to make an Order for Payment by the Respondent to the Applicant of the sum of £553.88.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

George Clark

Legal Member/Chair

29 November 2018

Date