



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

Chamber Ref: FTS/HPC/CV/20/1637

Re: Property at 7 Johnstone Terrace, East Lothian, EH32 0BB (“the Property”)

Parties:

Mr Alexander Riddell, Mr David Riddell, 7 Highfield Terrace, Fairlie, Largs, KA29 0BD; 33 Gilmour Street, Greenock, PA15 2HX as Executors of the late Dorothy Riddell (“the Applicants”)

Ms Paulina Pietrzak, 7 Johnstone Terrace, East Lothian, EH32 0BB (“the Respondent”)

Tribunal Members:

Josephine Bonnar (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 of the sum of £6680 should be granted against the Respondent in favour of the Applicants.

Background

1. By application dated 3 August 2020 the Applicants seek a payment order against the Respondent in relation to rent arrears. A copy tenancy agreement and rent statement were lodged in support of the application.
2. A copy of the application and supporting documents were served on the Respondent by Sheriff Officer on 14 October 2020. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 18 November 2020 and that they were required to attend.
3. The application called for a CMD on 18 November 2020 by telephone conference call. The Applicants were represented by Ms Greeney. The

Respondent participated. During the CMD the Applicant asked for the application to be amended to reflect an increase in the rent arrears owed of £6680. An updated rent statement had been provided. The Legal Member allowed the application to be amended. The Respondent advised the Legal Member that she admitted that rent arrears of £6680 were outstanding. She stated that she wanted to apply for time to pay. She explained that the time to pay application sent to her with a copy of the application had been damaged. Following discussion, the Legal Member continued the CMD to allow the Respondent to submit a time to pay application. Parties were both notified that a further CMD would take place by telephone conference call on 7 January 2021 at 11.30am.

4. The application called for a CMD by telephone conference call on 7 January 2021 at 11.30 am. The Applicant was represented by Ms Greeney. The Respondent did not participate and was not represented. The Respondent did not contact the Tribunal in advance of the CMD and did not submit an application for time to pay.

Case Management Discussion

5. Ms Greeney advised the Legal Member that the Applicant has had no contact with the Respondent since the last CMD. Ms Greeney has attempted to make contact by telephone and email, without success. No payments have been made to the rent arrears and two further instalments of rent have not been paid. She confirmed that the Respondent remains in occupation of the property but has been served with Notice to Leave. She advised that the Applicant seeks a payment order for the sum of £6680 which is still outstanding.

Findings in Fact

6. The Applicants are the Executors of the owner and landlord of the property.
7. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
8. In terms of the tenancy agreement the Respondent is due to pay rent at the rate of £835 per calendar month.
9. Between 23 March 2020 and 28 October 2020, the Respondent incurred rent arrears of £6680.
10. The sum of £6680 is due to the Applicants in unpaid rent.

Reasons for Decision

11. From the documents lodged in support of the application and the information provided at the CMDs, the Legal Member is satisfied that the Respondent entered into a tenancy agreement with the Applicant and undertook to pay rent at the rate of £885 per month. The tenancy is continuing, and the Respondent remains in occupation of the property. The Respondent admitted that the sum of £6680 was outstanding at the CMD which took place on 18 November 2020. She said that she wished to apply for time to pay but has failed to do so. She did not participate in the CMD. The Legal Member is satisfied that the sum of £6680 is still outstanding and that the Respondent has made no payments or offered a repayment arrangement. The Legal Member is satisfied that the Applicants are entitled to a payment order for this sum.

12. The Legal Member concludes that an order for payment should be granted against the Respondent.

Decision

13. The Legal Member determines that an order for payment of the sum of £6680 should be granted against the Respondent.

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.

Josephine Bonnar, Legal Member

7 January 2021

J Bonnar