



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/22/0654

Re: Property at Flat 2/1, 58 Ann St, Greenock, Scotland, PA15 4EP (“the Property”)

Parties:

Mr Stuart Dowden, 38 Alverstone Rd, East Cowes, East Cowes, Isle of Wight, PO23 6NZ (“the Applicant”)

Mr Alistair Hair, Flat 2/1, 58 Ann St, Greenock, Scotland, PA15 4EP (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of Four Thousand Two Hundred and Twenty-Five Pounds only be made in favour of the Applicant and against the Respondent.

Background

1. This is an application in terms of Rule 111 of the Tribunal rules of procedure which is dated 4th March 2022 and was acknowledged as received by the Tribunal on 7th March 2022 and accepted on 21st March 2022. A case management discussion was fixed for 27th May 2022 at 2pm.

Case Management Discussion

2. The Applicant did not attend the case management discussion but was represented by his mother Mrs Marie Dowden, known as Anne Dowden, who manages the property for him. There was no appearance by or on behalf of the Respondent. The Tribunal

had sight of an execution of service by Sheriff Officer of the application and supporting papers which had been served personally on the Respondent. The Tribunal was satisfied that the Respondent had fair notice of the application and that it was appropriate to proceed in his absence.

3.The Tribunal had sight of the application, a tenancy agreement, a letter regarding a previous application for a payment order, an authorisation from the Applicant authorising Mrs Dowden to be his agent and deal with all matters concerning the property on his behalf, a series of bank statements, and a handwritten note regarding rent arrears and a note of what had been paid and the sums unpaid.

4.Mrs Dowden explained that her son was the owner of the property and he had requested that she deal with the property on his behalf when he moved away from the area and that she rent it out for him. Mrs Dowden signed a tenancy agreement with the Respondent on behalf of the Applicant, describing herself in the agreement as the property manager in the section where the landlord details are entered. The agreement commenced on 23rd March 2019 and the monthly rent payable is £325, payable in advance. No deposit was paid.

5.The Tribunal had sight of bank statements which showed that 3 rent payments had been made by or on behalf of the Respondent in 2019, 3 payments in 2020 and 3 in 2021.An initial rent payment had also been paid by the Respondent at the start of the tenancy which was noted on the arrears note, but this had not been paid in to Mrs Dowden's bank account but was paid over to someone assisting her with the property rental. A payment order was being requested for the unpaid rent for the period up to 23rd June 2021.Some of the rent payments made during the tenancy were for amounts larger than one month's rent but after discussion it was agreed that the arrears which were due up to 23rd June 2021 amounted to £4225.Further arrears had accrued since that date but there was no request to increase the sum being claimed by way of a payment order in this application.

6.Mrs Dowden informed the Tribunal that when she tried to contact the Respondent regarding arrears, he would not answer the phone if she used her number, and he would not collect mail sent to him. When she had been able to speak to him, he had indicated that his father would pay the rent and some rent had been paid. She was not aware of any personal circumstances of the Respondent which might affect rent payments and understood that he is a self-employed electrician. The position outlined to the Tribunal was that the full rent due had not been paid despite efforts to obtain payment.

7.The Tribunal was satisfied that it had sufficient information to allow a decision to be made and that the proceedings had been fair.

Findings in Fact

8.The Applicant is the owner of the property referred to in the application and tenancy agreement.

9.The Applicant authorised his mother Mrs Anne Dowden to manage the property and rent it out on his behalf.

10.Mrs Dowden entered into a tenancy agreement with the Respondent as property manager of the property for the Applicant with effect from 23rd March 2019.

11.The monthly rent payable by the Respondent in terms of the tenancy agreement is £325 payable in advance and the agreement continues.

12. Some rent was paid by or on behalf of the Respondent in 2019, 2020 and for the period up to 23rd June 2021 but rent arrears accrued over this period amounting to £4225.

13. The sum of £4225 is lawfully due to the Applicant by the Respondent by way of rent arrears accrued at the property in terms of the agreement entered into with the Respondent on the Applicant's behalf.

Reasons for Decision

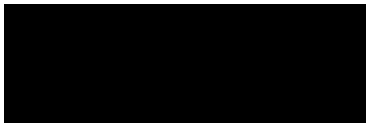
The Tribunal was satisfied that it was appropriate to make a payment order given the circumstances of the application and the unsuccessful attempts to obtain payment from the Respondent.

Decision

The Tribunal granted a payment order in the sum of Four Thousand Two Hundred and Twenty- Five Pounds only in favour of the Applicant and 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.



Legal Member/Chair

27.5.22

Date