

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017

Chamber Ref: FTS/HPC/CV/19/0784

Re: Property at 11/1 Silvermills, Edinburgh, EH3 5BF (“the Property”)

Parties:

Mrs Fiona McNair, c/o D J Alexander Lettings Ltd, 1 Wemyss Place, Edinburgh, EH3 6DH (“the Applicant”)

Mr David Paterson, 20 2F1 Royal Crescent, Edinburgh, EH3 6QA (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of ONE THOUSAND SEVEN HUNDRED AND THIRTY EIGHT POUNDS AND EIGHTY-ONE PENCE (£1,738.81) STERLING

- **Background**

An application dated 27 February 2019 was submitted to the Tribunal under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). Said application sought payment against the Respondent in favour of the Applicant in the sum of £1,738. Said sum comprised rent arrears due by the Respondent (£1812.81), cleaning costs incurred by the Applicant at the end of the tenancy (£111) and costs incurred in tracing the Respondent to a new address £120).

As the tenancy in place between the parties was a Private Residential Tenancy and Rule 70 deals with civil applications in relation to assured tenancies only, the Application was subsequently amended by the Applicant to be considered under the correct rule, being Rule 111, which deals with civil applications relating to Private Residential Tenancies.

- The Case Management Discussion

A Case Management Discussion ("CMD") took place on 23 May 2019. Gill Cartwright of DJ Alexander appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent.

Ms Cartwright sought an Order for Payment in the sum of £1,738.81, in terms of the application. She advised that the parties entered into a Private Residential Tenancy which commenced 15 May 2018. The Respondent had moved into the Property and paid the first month's rent, and made no subsequent payments of rent. The Respondent returned his keys to the Applicant's representative on 12 July 2018 and his 28 day notice period was taken from that date. The Applicant made attempts to trace him, initially by Sheriff Officer which was unsuccessful, and thereafter by hiring a Private Investigator at a cost of £120, which did successfully return a new address. The Tribunal was advised that a deposit in the sum of £300 had been repaid to the Applicant from the tenancy deposit scheme, and the application for the return of the deposit was not disputed by the Respondent. The total sum due by the Respondent at the end of the tenancy, taking into account the deposit, was £1,738.81.

- Findings in Fact

The Tribunal made the following findings in fact:

1. The parties entered into a Private Residential Tenancy ("the PRT") which commenced 15 May 2018
2. The Respondent was obliged in terms of Clause 8 of the PRT to make payment of rent in the sum of £995 per month.
3. The Respondent was obliged to give 28 days' notice to the Applicant of his intention to terminate the PRT in terms of Clause 24 of the PRT.
4. The Respondent returned his keys to the Applicant on 12 July 2018.
5. The PRT came to an end 28 days following 12 July 2018.
6. The Respondent was obliged to keep the Property clean during the tenancy in terms of Clause 17 of the PRT
7. The Applicant is entitled to pursue the Respondent for any reasonable costs incurred in pursuing the Tenant for payment of unpaid rent in terms of Clause 37(a) of the PRT.

- Reasons for Decision

The Tribunal was satisfied that the sum sought by the Applicant fell lawfully due. The Respondent was in breach of Clauses 8 and 17 of the PRT, by failing to pay rent lawfully due and further by failing to leave the Property in a clean and tidy condition. Further, the Applicant was entitled to pursue the Respondent for the costs incurred in instructing a Private Investigator to find his new address with the purpose of pursuing him for his non-payment of rent.

Accordingly, the Tribunal was satisfied that the sum of £1,738.81 was due by the Respondent to the Applicant.

- Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of ONE THOUSAND SEVEN HUNDRED AND THIRTY EIGHT POUNDS AND EIGHTY-ONE PENCE (£1,738.81) STERLING

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

23/5/19

Date