

Housing and Property Chamber

First-tier Tribunal for Scotland



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

Chamber Ref Nos: FTS/HPC/CV/20/0706 and FTS/HPC/CV/20/0707

Property: Flat 3/1, 7 Banner Drive, Glasgow, G13 2HW (“the Property”)

Parties:

Mr Robert Pascal, 64 Kidd Place, Charlton, London, SE7 8HF (“the Applicant”),

Clarity Simplicity Limited, 8 Regwood Street, Glasgow, G41 3JG (“the Applicant’s Representative”) and

Mr Scott Wilson, Flat 1 / 2, 1818 Great Western Road, Glasgow, G13 1HQ (“the Respondent”)

Tribunal Members:

G McWilliams- Legal Member

M Lyden - Ordinary Member

Decision

1. The Tribunal, having considered all of the available evidence and the submissions of the Applicant, makes an order for payment by the Respondent to the Applicant of the sum of £1,613.00.

Background

2. The Applicant lodged two Applications for payment orders in terms of Rule 111 (Applications for civil proceedings in relation to a private residential tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”). The Applications’ papers were sent to the Tribunal between 28th February and 31st August 2020.

3. The Applicant sought payment from the Respondent in respect of claimed rent arrears as well as damages for losses.

Case Management Discussion

4. A Case Management Discussion (“CMD”) proceeded remotely by telephone conference call on 26th October 2020. Reference is made to the Notes on the CMD.

Hearings

5. Evidential Hearings were scheduled to take place remotely by telephone conference call on 15th December 2020 and 11th February 2020. Both Hearings were adjourned. Reference is made to the Hearing Note in respect of the Hearing scheduled to take place on 11th February 2020, and the Notice of Directions which accompanied that Note.
6. An evidential Hearing proceeded remotely by telephone conference call on 8th April 2021. The Applicant and his Representative’s Ms C. Young, Trainee Solicitor attended. The Respondent did not attend. The Hearing had been intimated to the Respondent by e-mail on 4th March 2021. The Respondent had previously been in e-mail communication with the Tribunal. His last e-mail was sent to the Tribunal on 21st September 2020. The Respondent had not engaged with the Tribunal since that date and had not attended at the CMD and previously adjourned Hearings.
7. The Applicant had lodged written representations, with supporting papers, in advance of the CMD and Hearings. In advance of the Hearing on 8th April 2021 the Applicant had also amended his claim for payment of rent arrears to seek the sum of £1,220.62 and restricted his claim for damages in respect of losses to the sum of £742.38. The total sum claimed by the Applicant was £1963.00. .

Evidence and Submissions

8. The Applicant gave evidence and relied on the terms of the Rent Statement which he had prepared himself, based on a Rent Statement previously produced by his former Letting Agents, Victoria Letting, as well as copies of his Bank statements, which had all been lodged with the Tribunal. The Applicant stated that he sought a payment order in respect of arrears of rent of £1,220.62.
9. The Applicant also relied on his Schedule of losses, and copy receipts for payments made in respect of the losses, which had also been lodged. The Applicant stated that he had to pay for a replacement bed (£149.99), fridge (£162.94), lightbulbs (£8.00), shower fittings (£50.45) and a door handle (£46.00) following the termination of the parties’ tenancy agreement in

November 2019, as the Respondent had removed or damaged these items. The Applicant also had to pay an outstanding electricity bill (£65.00), for energy used by the Respondent, and the cost of an electric circuit check (£50.00), as a result of damage caused to a socket by the Respondent, during the tenancy. The Applicant had to have a deep clean of the Property carried out after the tenancy ended (£210.00). The total sum paid by the Applicant in respect of these losses was £742.38.

10. The Applicant acknowledged that, in January 2021, Victoria Letting returned to him the sum of £350.00, being the deposit monies which they had previously received from Safe Deposits Scotland in January 2020. The Applicant confirmed that he was content for this deposit amount to be deducted from the damages sum that he sought, reducing his claim for losses to the sum of £392.38.
11. As the Respondent did not attend the Hearing, and had not engaged with the Tribunal since September 2020, there was no contradictor to the evidence and submissions given by the Applicant, and his Representative.

Findings in Fact and Law

12. There are arrears of rent owing by the Respondent to the Applicant in the sum of £1,220.62.
13. The Applicant had to pay for a replacement bed fridge, lightbulbs, shower fittings and door handle following the termination of the parties' tenancy agreement in November 2019, as the Respondent had removed a bed and damaged the fridge in the Property. The Applicant also had to pay an outstanding electricity bill, for energy used by the Respondent and the cost of an electric circuit check, as a result of damage caused to a socket by the Respondent, during the tenancy. The Applicant had to have a deep clean of the Property carried out after the tenancy ended due to the condition in which the Property was left by the Applicant. The total sum paid by the Applicant in respect of these losses was £742.38.
14. In January 2021, Victoria Letting returned the sum of £350.00, being the deposit monies which they had previously received from Safe Deposits Scotland in January 2020, to the Applicant.
15. The Respondent is in breach of the parties' tenancy agreement as there is outstanding rent due, and the Applicant is entitled to a payment order in respect of the outstanding rent amount owing of £1,220.62.
16. The Respondent caused damage to items within, and removed a bed from, the Property, and is in breach of the parties' tenancy agreement as he failed to ensure that the Property was in good condition, with its contents and fittings intact, at the termination of the tenancy. The Applicant suffered losses as a result of the Respondent's breach of the parties' tenancy agreement, in

having to make various payments to repair the damages, replace the bed, and have the Property professionally cleaned. The Applicant is entitled to a payment order in the sum of £392.38 being the net amount of the payments he made, after account is taken of the deposit amount, of £350.00, which was returned to the Applicant.

17. The Applicant is entitled to receive an aggregate payment from the Respondent of the sum of £1,613.00, in respect of unpaid rent and damages for losses incurred as a result of the Respondent's breaches of the parties' tenancy agreement.

Reasons for Decision

18. Section 71 of The Private Housing (Tenancies) Act 2016 provides as follows:

(1) In relation to civil proceedings arising from a private residential tenancy-

(a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),

(b) a sheriff does not have competence or jurisdiction.

(2) For the purposes of subsection (1), civil proceedings are any proceedings other than-

(a) the prosecution of a criminal offence,

(b) any proceedings related to such a prosecution.

19. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicants) for payment of unpaid rent against a tenant (such as the Respondent) in respect of a PRT such as this.

20. The Tribunal considered all of the documentary and oral evidence and submissions.

21. The Applicant referred to the Rent Statement he had prepared, which corresponded with the terms of the Rent Statement produced by Victoria Letting, and gave evidence in a very credible, reliable, and straightforward manner. The Tribunal, having considered the Applicant's evidence in this regard, found, on a balance of probabilities, that the Respondent had breached the parties' tenancy agreement by failing to pay all rent due and that there was outstanding rent owing in the sum of £1,220.62.

22. The Applicant's evidence regarding the payments he had to make at the termination of the tenancy for repair and replacement of damaged items, and for electrical and cleaning services, and outstanding energy costs, was also given in a straightforward, reliable and consistent manner. He referred to his Schedule of losses which corresponded with the various receipts for payments, following the end of the tenancy, which he had lodged. The Tribunal, having considered the Applicant's evidence in this regard, found, on

a balance of probabilities, that the Applicant's losses had been incurred as a result of the Respondent's breaches of the parties' tenancy agreement and that the Applicant had to make good those losses and pay a net sum of £392.38, after account had been taken of the returned deposit amount of £350.00, to repair/ replace items, have necessary services carried out and settle outstanding energy costs.

23. There was no contradictor to the Applicant's evidence, or his submission and the submission of his solicitor, as the Respondent has not engaged with the Tribunal since September 2020.

24. The Tribunal accordingly determined that the Applicant is entitled to payment of the aggregate amount of £1,613.00, in respect of rent arrears and losses for damages to his Property arising from the Respondent's breaches of the parties' tenancy agreement.

25. Therefore the Tribunal determined to make an order for payment by the Respondent to the Applicant of the sum of £1,613.00.

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.

G McWilliams

5th May 2021

Legal Member

Date