



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

Chamber Ref: FTS/HPC/CV/19/2098

Re: Property at 89 Wester Mavisbank Avenue, Airdrie, North Lanarkshire, ML6 0HD (“the Property”)

Parties:

Mr Lendrick Gillies, 132 St John's Road, Edinburgh, EH12 8AX (“the Applicant”)

Mr Alan Connarty, 89 Wester Mavisbank Avenue, Airdrie, North Lanarkshire, ML6 0HD (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application was made to 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 (“the 2017 Rules”) seeking an order for payment of the sum of £4,500 to the Applicant in relation to rent arrears due by the Respondent.
2. The application contained:-
 - a copy of the tenancy agreement;
 - rental statement; and
 - email to Respondent regarding rent arrears

3. The Applicants' agent Mr Paulo, from Coulters Letting Ltd appeared on behalf of the Applicant. There was no appearance by the Respondent.
4. Notice of the Hearing had been served on the Respondent by sheriff officers on 21 August 2019. As I was satisfied that the Respondent had been served with notice of today's hearing, I was prepared to proceed with today's hearing in his absence.

Hearing

5. The Applicants' agent referred me to the papers which had been lodged in support of the application, including the tenancy agreement, and rent account statement. He confirmed that this application related to unpaid rent due in terms of that agreement. The Respondent had only paid the first month's rent in September 2018 and had made no other payments at all.
6. He advised that the Respondent was aware of the rent arrears. The letting agents had made numerous attempts to get him to pay the arrears. They had tried to contact him by email, telephone, messaging and they had also visited his flat. He had not responded to any contact. They were aware that he was still residing at the property. They were now proceeding with an eviction application against him.
7. The Applicant's agent advised that the current level of arrears were £5400.
8. The Applicants' agent advised that the rent arrears were still outstanding as at today's date. There had been no further payments towards the rent arrears by the Respondent other than as set out in the rental statement lodged by the application and he therefore sought an order for payment of £4500.

Findings in Fact

9. The Tribunal found the following facts to be established:
 10. A tenancy agreement was entered into between the Applicant and the Respondent for the property and existed between the parties. It was entered into on 1 September 2018.
 11. Clause 8 in the tenancy agreement provided that monthly rent was £450 and was payable each month in advance.
 12. That the rental statement showed amounts due each month, amounts received, and rent outstanding.
 13. That the rental statement showed total rent arrears outstanding as at 1 July 2019 being £4500.
 14. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

Reasons for Decision

15. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies.
16. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
17. There was no response or appearance from the Respondent but he had been notified of today's hearing.
18. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was submitted a rental statement showing the arrears due and additional information provided today by the Applicant's agent was that there had been no further payments towards the rent arrears and this was therefore the sum still outstanding.
19. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued for.

Decision

I grant an order in favour of the Applicant for FOUR THOUSAND FIVE HUNDRED POUNDS (£4,500) STERLING 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.

Melanie Barbour

Legal Member/Chair

27. 9. 19

Date