



Decision 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/23/1125

Re: Property at 9 Easter Langside Drive, Dalkeith, Edinburgh, EH22 2FR (“the Property”)

Parties:

Ms Aqila Syed, 18 Ferry Road Avenue, Edinburgh, EH4 4BL (“the Applicant”)

Ms Stacie Campbell, Craig Minto, 9 Easter Langside Drive, Dalkeith, Edinburgh, EH22 2FR; The Sun Inn, Lothian Bridge, Newbattle, Dalkeith, EH22 4TR (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Second Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondents in favour of the Applicant in the sum of £11,900.

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the First Respondent.
2. By decision dated 12 April 2023, a Convenor of the Housing and Property Chamber, having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 19 April 2023. The Tribunal intimated the application to the parties by letter of 24 April 2023 and advised them of the date, time and conference call details of

today's case management discussion ("CMD"). In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 15 May 2023. No written representations were received.

The case management discussion

4. The CMD took place by conference call. The Applicant was present and represented by Ms Rosaleen Doyle and the First Respondent was present. The Second Respondent failed to join the conference call and the discussion proceeded in his absence. This case called alongside a related case which proceeds under chamber reference FTS/HPC/EV/23/0620. The Applicant's representative explained that the First Respondent is the tenant living in the property and the Second Respondent is her guarantor. Rent has not been paid since May 2022 and the rent arrears have increased to £11,900. The First Respondent accepted that the sum of £11,900 is due to the Applicant in respect of rent arrears. She explained that the housing element of her universal credit claim stopped and that is the reason she has not paid rent. She was not opposed to the order for payment being granted but she is not in a position to pay that sum.

Findings in Fact

5. The Applicant and First Respondent entered into a private residential tenancy which commenced 20 May 2021.
6. The contractual monthly rent was £850 per month, in advance.
7. The First Respondent incurred rent arrears of £11,900.
8. The Second Respondent guaranteed the First Respondent's obligations in terms of the tenancy agreement.

Reason for Decision

9. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The First Respondent accepted that the sum is due to the Applicant. The Second Respondent failed to lodge written representations and failed to participate in the CMD. The rent statement lodged discloses substantial arrears of rent due by the First Respondent. The Tribunal was satisfied that the First Respondent incurred rent arrears amounting to £11,900 and that the Second Respondent guaranteed the First Respondent's obligation to pay rent.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Nicola Irvine

Legal Member/Chair

30 May 2023

Date