



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/23/1476

Re: Property at 23/7 The Flying Scotsman Way, Prestonpans, EH32 9GE (“the Property”)

Parties:

Mr Harry Ogilvie, Mrs Natasha Ogilvie, Al Quoz Industrial Area1, PO BOX 350, Dubai, United Arab Emirates (“the Applicants”)

Mr Jonathan Hoy, 32 Inglis Avenue, Port Seton, Prestonpans, EH32 0AD (“the Respondent”)

Tribunal Member:

Ms H Forbes (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicants in the sum of £3,650.

Background

1. By application received in the period between 8th May and 8th June 2023 and made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £3,650 in respect of unpaid rent. The Applicants’ representative lodged a copy of the private residential tenancy agreement between the parties, which commenced on 19th November 2020 with a monthly rent of £750, and ended on 23rd September 2022, email correspondence between the parties, an inspection report and a rent statement.
2. Notification of the application and the forthcoming Case Management Discussion upon the Respondent was carried out by Sheriff Officers on 31st July 2023.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 29th August 2023. Neither party was in attendance. The Applicant was represented by Mrs Claire Burnett and Ms Ann Sellar, Swift Letting Ltd.
4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
5. Mrs Burnett explained the background to the application and said the Respondent had failed to adhere to payment plans that had been put in place, and the arrears were £3,650.

Findings in Fact and Law

6.
 - (i) Parties entered into a private residential tenancy that commenced on 19th November 2020 with a monthly rent of £750.
 - (ii) The tenancy ended on 23rd September 2022.
 - (iii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - (iv) The Applicants are entitled to recover rent lawfully due.

Reasons for Decision

7. The Respondent has failed to make payment of rent lawfully due. The Applicants are entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

8. An order for payment is granted in favour of the Applicants in the sum of ££3,650.

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.

H Forbes

Legal Member/Chair

29th August 2023
Date