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/22/2978

Re: Property at 10 Hawthorn Drive, New Stevenson, Motherwell, ML1 4ER ("the Property")

Parties:

Mr Dominic McKinnon, 9 Cleveland Place, Motherwell, ML1 2FR ("the Applicant")

Miss Stacey Gavan, whose current address is unknown and Mr Stephen Lennon, 5 Hazelfield Grove, Chapbelhall, Airdrie, ML6 8GL ("the Respondents")

Tribunal Members:

Martin McAllister (Legal Member)

Decision (in absence of Stacey Gavan)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment be made against Stephen Lennon in favour of the Applicant for the sum of TWO THOUSAND FIVE HUNDRED POUNDS (£2,500)

Background

1. This is an application for payment which is dated 18th August 2022. The application is seeking payment of the sum of £3,250 in respect of rent arrears.

2. The application was accepted for determination on 1st November 2022.

3. Service of the case papers and intimation of the case management discussion was made on Stephen Lennon by Sheriff Officer on 17th January 2022.

4. Service of the case papers and intimation of the case management discussion has not been effected on Stacey Gavan whose address is unknown.

Case Management Discussion

5. A case management discussion was held by audio conference on 28th February 2023.

6. The Applicant was present and Stephen Lennon was not present but was represented by John Ballantyne, solicitor. There was no appearance by Stacey Gavan.

7. The Applicant said that the total arrears of rent is in the region of £6,000 and that he has now recovered the Property.

8. The Applicant and Mr Ballantyne confirmed that agreement had been reached with regard to Mr Lennon's liability and that a draft minute of agreement had been drafted by Mr Ballantyne and sent to the Applicant. Mr McKinnon said that the minute of agreement seemed to be in acceptable terms and that he was happy to settle the claim against Mr Lennon on the basis that he will pay £2,500 by instalments over twelve months.

9. The Applicant and Mr Ballantyne asked the Tribunal to make a payment order for £2,500. Both agreed that the order will not reflect instalment payments and Mr Ballantyne said that his client accepts any consequences of this.

10. The Applicant said that he would consider his position with regard to pursuing Ms Gavan in respect of her contractual liability to pay rent.

Findings in Fact

11.1 The Applicant and the Respondents entered into a private rented tenancy on 3rd January 2022 which was the commencement date of the tenancy.
11.2 The contractual rent payable under the tenancy was £650 per month.
11.3 The tenancy has been terminated.
11.4 As at 18th August 2022, there were rent arrears of £3,250.
11.5 There are currently rent arrears in excess of £3,250.
11.6 Stephen Lennon is liable to pay the sum of £2,500 to the Applicant.

Reasons

12. The Tribunal could make no finding with regard to the current level of rent arrears other than they are in excess of £3,250.

13. The Tribunal had regard to the private rented tenancy agreement and the rent statement which were submitted with the application.

14. The Tribunal accepted that the Applicant and Mr Lennon had agreed that an order for payment of £2,500 should be made against Mr Lennon.

15. In making the payment order, the Tribunal made no finding in relation to Stacey Gavan.

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.

Martin McAllister

Martin J. McAllister
Legal Member
28th February 2023