



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/EV/22/2079

Re: Property at 10 India Drive, Inchinnan, PA4 9LE (“the Property”)

Parties:

Mr Graham Moore, Mrs Susan Moore, 6 Cami Du Vinat, D'Amunt, 66820, France (“the Applicant”)

Mr Joseph Sillars, 10 India Drive, Inchinnan, PA4 9LE (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member) and Gerard Darroch (Ordinary 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 of the sum of £9,180 be made against the Respondent in favour of the Applicant.

1. This was a case management discussion in respect of an application by the Applicant dated 29th June 2022 for an order for payment of rent arrears against the Respondent. This was the first calling of the case before a Tribunal. A previous CMD had been arranged but was postponed at the request of the applicant’s representative.
2. The following documents were lodged with the application:-
 - A copy of the Tenancy Agreement dated 19th March 2020 with a commencement date of 19th March 2020
 - Copy Notice to Leave dated 2nd December 2021
 - E-mail sending Notice to Leave dated 2nd December 2021
 - Copy S 11 Notice and letter to Renfrewshire Council dated 2nd December 2021
 - Rent statement showing balance due of £1550 at 1st December 2021
 - E-mails to tenant regarding non-payment of rent

3. The Applicant lodged a further rent statement showing that as of 21st November 2022 the rent due was £7,545 and then a further rent statement and was lodged on 13th February seeking a sum due of £9,180.
4. The Tribunal issued a direction asking for clarification of how the apparent rent increase from £525 to £545 charged from 1st January 2022 had been applied and the Applicant's representative responded on 2nd May 2023 providing a copy of an e-mail dated 29th September 2021 to the Respondent confirming the landlord wished to increase the rent from £525 to £545 from 1st January 2022 and a copy of the Respondent's response dated 30th September 2021.

The CMD

5. The CMD proceeded today by way of teleconference. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. The Applicant was represented by Mrs Jacqueline McLelland and Ms Daryl Harper who attended on behalf of the Applicant's representative Castle Residential.
6. The Respondent did not attend nor was he represented on the teleconference. The Respondent had been served a copy of the application and papers by sheriff officers on 20th December 2022 and sent on 3rd April 2023 a note of the date and time of this teleconference and details of how to join on. The Respondent has been given fair notice and the Tribunal therefore felt it was appropriate and fair to continue in his absence.
 - Mrs McLelland spoke on behalf of the Applicant and advised that they were seeking an order for payment of rent arrears from Mr Sillars who was the tenant in the Property. She explained that the Respondent had lived in the Property since approximately March 2020 and they believe he is still living at the Property although the tenant has not allowed or cooperated with giving access to the Property. He has not however returned the keys or given notice since receiving a Notice to Leave and neighbours believe he is still resident there.
 - With regard to the rent statement Mrs McLelland confirmed that the rent arrears are now £10,815 although she advised that the Applicants are only seeking the sum previously intimated to the Tribunal on 13th February namely £9,180. She advised that nothing has been paid towards the arrears or any rent since October 2021 and advised that the guarantor is Ms Elizabeth Irvine and she sometimes paid his rent which is why her name appears on the statement.
 - In response to a request from the Tribunal Mrs McLelland sent by e-mail a copy of the rent increase notice which had been served on Mr Sillars on 29th September 2021 confirming the rent would be increased to £545 from 1st January 2022
 -

Facts

1. The Applicant and the Respondent entered into a lease of the Property which commenced on 19th March 2020.
2. The Respondent is still occupying and in control of the Property and the tenancy is continuing.
3. The Rent due was initially £525 in terms of the lease and was increased by notice of increase from 1st January 2022 to £545.

4. The current rent outstanding is £10,815.
5. The last payment of rent was made on 4th October 2021 and there have been no payments since.
6. The Applicants have intimated a claim to increase the rent to £9,180 on 13th February 2021

Reasons for the Decision

1. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £525 per month in rent.
2. The Rent was increased to £545 after the Applicants served an increase of rent notice which has been acknowledged and not objected to by the Respondent.
3. The Respondent has failed to pay the full rent due. The Respondent has been served with a notice to leave but has not yet left the Property.
4. The Respondent was served notice of this application by sheriff officer on 5th January 2023 and sent intimation of this CMD on 3rd April and has not made any written representations or attended this CMD. The Applicants provided a revised rent statement confirming rent had increased on 13th February and this has been copied to the Respondent so the Tribunal finds that the Applicant has successfully intimated a request to increase the sum due to £9180. The Applicant is not seeking to increase that sum further at this time.
5. The Tribunal notes there is a guarantor named on the tenancy agreement but this application is only made against the Respondent who is the tenant.
6. The Tribunal accepts the written evidence and verbal statements made by the Applicants' representative who the Tribunal found clear and credible in her evidence that the rent outstanding as of 13th February 2023 is £9,180. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

- **Decision**

An order for payment of the sum of £9180 is granted in favour of the Applicant 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.

J Todd

10 May 2023

Legal Member/Chair

Date