



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/19/3160

Re: Property at 3C Novar Road, Alness, IV17 0QG (“the Property”)

Parties:

Mr Allan Thornton, 5 Braeface, Alness, IV17 0QP (“the Applicant”)

Ms Marta Jaroszek, formerly residing at 3C Novar Road, Alness, IV17 0QG, and now c/o Citizens Advice Bureau, Market Square, Suie House, Alness, IV17 0UD (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant would be granted an order for payment against the Respondent in the sum of NINE HUNDRED POUNDS (£900) ONLY payable in monthly instalments of £30 per calendar month.

Background

The Applicant was the owner of the Property. He had let the Property to the Respondent at a monthly rent of £450 per calendar month. The Applicant alleged that arrears of rent had occurred from June 2019. As a result he had applied to the Tribunal seeking a payment order for the rent arrears against the Respondent

The Tribunal had before it the following documentation:-

- The Applicant’s application to the Tribunal dated 3 October 2019;
- The Private Residential Tenancy Agreement between the parties;
- A rent arrears statement produced by the Applicant;
- A copy of the Applicant’s Land Certificate evidencing ownership of the Property.

Case Management Discussion ("CMD")

The Tribunal held a CMD at the Mercure Hotel, Church Street, Inverness at 10am on 8 January 2020. The Applicant was present and represented himself. The Respondent was present and was accompanied by Mr Rattray from the Citizens Advice Bureau, Alness. Ms Niemick, a translator for the Respondent, was also present.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Applicant had let the Property to the Respondent with effect from 20 April 2019;
- The monthly rental was £450 per calendar month;
- The Respondent ceased paying rent around June 2019 until the tenancy was terminated by the Respondent returning the keys on 23 December 2019;

Reasons for Decision

The Tribunal based its decision on the evidence obtained at the CMD. The Applicant produced a rent statement showing arrears of rental. The Respondent and her agent confirmed that it was not disputed by the Respondent that she had ceased to pay rental and that the sums were due by her to the Applicant. The Respondent's agent advised that she had become unwell and had a continuing medical condition. There was a possibility that she would be able to obtain up to two months of backdated Universal Credit and that, if this was obtained, this would be paid to the Applicant. It was accepted that there may be a balance due and a payment plan would require to be agreed.

The Applicant indicated that he was willing to compromise with the Respondent and seek to agree matters. The Tribunal adjourned briefly to allow the parties to discuss matters themselves. The parties subsequently confirmed that they had agreed the following:-

- That a payment order would be granted for the sum of £900 only against the Respondent;
- Any back dated sums received from Universal Credit to that amount would be paid to the Applicant direct in satisfaction of the payment order;
- In the event that the Universal Credit claim rejected or was not sufficient to clear the agreed sum then the Respondent would make payment to the Applicant at the rate of £30 per calendar month.

The Tribunal considered matters. Given that the parties had reached a pragmatic and amicable landing between them, the Tribunal saw no reason not to proceed and issue a payment order on the basis agreed. It went beyond the power of the Tribunal to deal with the arrangement on Universal Credit but the Tribunal has noted above what was agreed by the parties at the CMD and was content that it

was appropriate for any payment of backdated Universal Credit to be paid direct to the Applicant. The Tribunal would issue an order at £900 (with instalment payments at £30 pcm) in favour of the Applicant that the Applicant could enforce if the claim for Universal Credit was unsuccessful or there was a shortfall in the sums received.

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.

Ewan Miller

Legal Member/Chair

8/1/2020

Date