



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/2502

Re: Property at 213 Magdala Terrace, Galashiels, TD1 2HY (“the Property”)

Parties:

Mr Kyle Lloyd-Jones, Salt Hall, Rosalea Brae, Hawick, Roxburghshire, TD9 7HH (“the Applicant”)

Miss Alice Patterson, 3 Balmoral Avenue, Galashiels, Selkirkshire, TD1 1JG (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatrige (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the amount of £ 828.76 by the Respondents to the Applicant should be granted.

A: Background

1. The application for an order for payment of rent arrears under S 71 of the Private Housing (Tenancies) (Scotland) Act 2016 arising from a Private Residential Tenancy Agreement between the parties was made by the Applicant on 25 July 2022.
2. The following documents were lodged to support the application and are referred to for their terms and held to be incorporated herein:
 - a. Copy tenancy agreement between the parties over the property commencing on 3 July 2020.
 - b. Tenancy rent statement for the period from 16 June 2020 to 25 June 2022
 - c. email correspondence between Respondent and Ms Wilson, Applicant Representative from 16 May 2022 to 6 June 2022

3. On 30 September 2022 the application and notification of the Case Management Discussion (CMD) was served by Sheriff Officers on the Respondents. The Tribunal was satisfied that the Respondents had the required notice of the CMD as set out in Rules 17 (2) and 24 (2) of the Procedural Rules.
4. No formal representations were received from the Respondents.
5. On 24 October 2022 the Applicant's representative sent a decision from LPS about the deposit allocation to the Tribunal explaining that the deposit had been used to cover other sums not related to the arrears claimed.

B: Case Management Discussion

6. The Applicant's representative Ms Wilson attended the CMD. The Respondent did not take part in the teleconference call.
7. The legal member explained the purpose of the CMD.
8. Ms Wilson set out the calculation of the outstanding arrears as the rent statement lodged was not particularly easy to understand. She explained that the £828.76 essentially reflect the entries in the "unallocated" column, as this shows the shortfall of rent as it arises. The small unallocated amounts stated at the end of the tenancy reflect pro rata charges for the days after the notice period had expired and before the tenant formally moved out.

C: Findings in Fact:

Based on the evidence lodged and the representations of the participants at the CMD the Tribunal makes the following findings in fact:

1. The property was let on a Private Residential Tenancy Agreement commencing on 3 July 2020.
2. The parties were the landlord and tenants of said Tenancy Agreement.
3. The tenancy came to an end after the tenant had given notice on 16 May 2022 to end the tenancy on 18 June 2022
4. The monthly rent of £400 was payable on the 3rd day of the month and monthly in advance as per clause 8 of the tenancy agreement.
5. Rent arrears of £828.76 accrued as shown in the Rent Statement submitted.
6. As at 28 October 2022 the amount due for rent arrears to the end of the tenancy due by the Respondent to the Applicant is £828.76.
7. No time to pay direction application has been received from the Respondent

D: Reasons for Decision:

The Tribunal considered that the material facts of the case were not disputed. In terms of Rule 17 of the Rules of Procedure:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

- (a) in any place where a hearing may be held;
- (b) by videoconference; or
- (c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

- (a) identifying the issues to be resolved;
- (b) identifying what facts are agreed between the parties;
- (c) raising with parties any issues it requires to be addressed;
- (d) discussing what witnesses, documents and other evidence will be required;
- (e) discussing whether or not a hearing is required; and
- (f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

However, in terms of Rule 18 of the Rules of Procedure:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

- (a) may make a decision without a hearing if the First-tier Tribunal considers that—
 - (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and
 - (ii) to do so will not be contrary to the interests of the parties; and
 - (b) must make a decision without a hearing where the decision relates to—
 - (i) correcting; or
 - (ii) reviewing on a point of law,
- a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

4. The Tribunal did not consider that there was any need for a hearing as there had been no representations from the Respondents and thus the arrears are not in dispute.

5. The Tribunal makes the decision on the basis of the documents lodged by the Applicant and the information provided by the Applicant's representatives at the CMD.

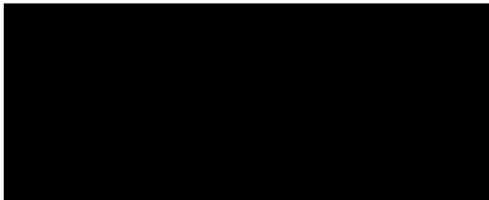
6. The Tribunal is thus satisfied that the Respondent had entered into a Private Residential Tenancy Agreement over the property with the Applicant. The rent was paid as set out in the rent statement lodged. No application for a time to pay direction or any other representations were provided by the Respondent. The amount stated in the application was due and resting owing as of the date of the CMD. The Respondent had due notice of the amount of arrears claimed and has not disputed the amount. As the amount is due and not disputed there is no need for a hearing and the Tribunal thus grants a payment order for the amount of £828.76 for arrears of rent.

Outcome:

The Tribunal grants the order for payment of the amount of £828.76 by the Respondents to the Applicant.

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.



28 October 2022

Legal Member/Chair

Date