



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/23/0785

Re: Property at 15a LOW STREET, BANFF, AB45 1AU (“the Property”)

Parties:

Mrs Chris Hughes, Mr Chris Hughes, Yew Tree Barn, New Deer, Turriff, AB53 6XF (“the Applicants”)

Mr Lukasz Biegun, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Graham Harding (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 the Applicants were entitled to an order for payment by the Respondent to the Applicants in the sum of £4400.00.

Background

1. By application dated 10 March 2023 the Applicants applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property under a Private Residential Tenancy agreement. The Applicants submitted a copy of the tenancy agreement and a rent statement in support of the application.
2. By notice of Acceptance dated 24 March 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 24 April 2023.
4. The application was conjoined with Case Reference FTS/HPC/EV/23/0759. Sheriff Officers were unable to serve the case papers in respect of that case on the Respondent as he had moved out of the property without notice by 31 May

2023. As a result, the CMD was adjourned and the Applicants were instructed to try to trace the Respondent.

5. By email dated 14 June 2023 the Applicants advised the Tribunal that tracing agents had been unable to locate the Respondent and submitted an application for Service by Advertisement which was granted by the Tribunal and a further CMD was assigned.
6. By email dated 29 August 2023 the Applicants submitted an application to increase the sum claimed to £4400. They confirmed the application had been intimated to the Respondent by email.
7. Intimation of the adjourned CMD was advertised on the Housing and Property Chamber Website conform to Certificate of Advertisement dated 12 September 2023.

The Case Management Discussion

8. A CMD was held by teleconference on 12 September 2023. The Applicants were represented by the First Named Applicant, Mr Chris Hughes. The Respondent did not attend nor was he represented. The Tribunal being satisfied that proper intimation of the CMD having been provided to the Respondent by way of Service by Advertisement determined to proceed in his absence.
9. The Applicant asked the Tribunal to allow the amendment and to increase the sum claimed to £4400.00 being the amount of rent due as at 5 August 2023. The Tribunal allowed the amendment.
10. The Applicant confirmed that it was the Applicants' intention to seek the Respondent's deposit under the tenancy deposit scheme but were awaiting the Tribunal's decision before making a claim.
11. The Applicant advised the Tribunal that he still did not know the whereabouts of the Respondent who had completely disappeared.
12. The Applicant asked the Tribunal to grant the order sought.

Findings in Fact

13. The parties entered into a Private Residential tenancy that commenced on 5 July 2022 at a rent of £400.00 per calendar month.
14. The Respondent ceased to reside in the property by 31 May 2023 but did not give any notice to the Applicants.
15. The Applicants have been unable to resume possession of the property without an order from the tribunal.

16. The rent due by the Respondent to the Applicant as at 5 August 2023 amounted to £4400.00.

Reasons for Decision

17. The Tribunal was satisfied from the written submissions and documents together with the oral representations that the parties entered into a Private Residential tenancy that commenced on 5 July 2022 at a rent of £400.00 per calendar month.

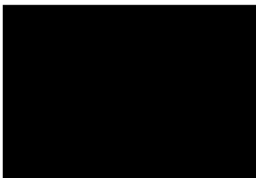
18. The Tribunal was also satisfied that at the date of raising the application the Respondent owed rent of £2400.00 and that at some point between 24 April 2023 and 31 May 2023 the Respondent ceased to reside in the property but did not advise the Applicants or give any notice of his intention to leave the property. As a result, the Tribunal was satisfied that the Applicants could not take possession of the property without obtaining an order from the Tribunal and that the Respondent therefore remained liable for the monthly rent. The Tribunal was satisfied that the rent due by the Respondent at 5 August 2023 amounted to £4400.00 and that an order for payment by the Respondent to the Applicants should be granted for that amount. The Tribunal in reaching its decision acknowledged that the Applicants intended to apply to the Tenancy Deposit Scheme for the return of the Respondents' deposit but did not consider this affected the sum claimed.

Decision

19. The Tribunal having carefully considered the written representations and documents together with the Applicant's oral submissions and being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicants entitled to an order for payment by the Respondent to the Applicant in the sum of £4400.00.

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.



Graham Harding
Legal Member/Chair

12 September 2023
Date