



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/21/0357

Re: Property at 6 Scotsmill Gardens, Aberdeen, AB21 0GA (“the Property”)

Parties:

Mr Neil Dewhurst, Mrs Paula Dewhurst, C/O Aberdein Considine, 5-9 Bon Accord Crescent, Aberdeen, AB11 6DN (“the Applicants”)

Willhaid Ayiego, Ms Alexis Smith, 9 Scotsmill Drive, Blackburn, Aberdeen, AB21 0EN (“the Respondents”)

Tribunal Member:

Nicola Irvine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondents to the Applicants in the sum of £480.89.

Background

[1] The Applicants submitted an application seeking an order for payment in the sum of £1,140.89. That sum was said to relate to arrears of rent incurred by the Respondents in respect of their occupation at the property. Case management discussions took place on 29 April and 3 June 2021 and reference is made to the notes of those case management discussions.

The Case Management Discussion

[2] The Applicants were represented by Miss Hoey, solicitor. The Second Respondent represented both Respondents. The case management discussion took place by conference call. The Applicants representative had lodged further documentation upon which the Applicants relied in support of

their claim. The dispute between the parties surrounded the allocation of the Respondents' deposit, which had been released to the Applicants by Safe Deposits Scotland. The Tribunal heard from the Applicants' representative in support of the Application. The Applicants' position is that the sum sought relates to rent arrears. The Respondents' position was that rent arrears are indeed due, but not in the sum sought by the Applicants; the Respondents conceded that rent arrears in the sum of £480.89 are due. The Respondents advised at earlier case management discussions that, from the deposit recovered by the Applicants, the sum of £837 was to be allocated to rent arrears.

- [3] The Tribunal heard submissions from parties on the documentation lodged by the Respondents from Safe Deposits Scotland. The documentation consists an exchange of messages between the Respondents and Safe Deposits Scotland.

Findings in Fact

[4]

1. The parties entered into a Tenancy Agreement dated 31 May 2019.
2. The rent payable was £750 per month, payable in advance.
3. The Respondents agreed to release of their deposit by Safe Deposits Scotland to the Applicants on the basis that £837 was to be allocated to rent arrears.
4. The dispute in relation to the Respondents deposit did not proceed to adjudication.
5. The Respondents incurred rent arrears which remain outstanding in the sum of £480.89.

Reason for Decision

- [5] The Applicant has produced documentation which, it was submitted, demonstrated that the Respondents have incurred rent arrears to the extent of £1,140.89. The exchange of messages between Safe Deposits Scotland and the Respondents states *"We are of the opinion that if the tenant agrees for the money to go back to the agent for rent arrears they should deduct that from the rent arrears balance. If an agent still looks to chase the tenant for the rent arrears but takes the money for the damages then the tenant will be able to show through the correspondence we have had with them that they agreed on the basis of rent arrears."* The dispute between the parties did not proceed to adjudication. The Tribunal agreed with the Respondents' that the deposit which was returned to the Applicants should have had £837 allocated towards rent arrears and that being the case, the remaining rent arrears amounted to

£480.89. The Tribunal was satisfied that the Respondents are liable to pay rent arrears and therefore granted the order for payment.

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.

Nicola Irvine

Legal Member/Chair

9 July 2021

Date