



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/20/0414

Re: Property at 141 Nigel Rise, Dedridge, Livingstone, EH54 6LX (“the Property”)

Parties:

Mr Derek Adams, Mrs Nicola Adams, 10 New Calder Mill Road, Livingstone, EH54 6FT; 10 New Calder Mill Road, Livingstone, EH54 6FT (“the Applicant”)

Ms Ann-Marie Love, 168 Clement Rise, Livingston, EH54 6LP (“the Respondent”)

Tribunal Members:

Richard Mill (Legal 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 be made against the respondent in the sum of Four Thousand and Ninety One Pounds and Twenty Eight Pence Sterling (£4,091.28)

INTRODUCTION

This is an application under Rule 70 and Section 16 of the Housing (Scotland) Act 2014.

This application relates to the recovery of arrears of rent and the recovery of additional sums relative to repairs and renewals due to the condition of the property following the respondent’s departure from the property.

An initial Case Management Discussion (CMD) took place on 13 August 2020. At that time, the parties agreed with the sum to be made by way of payment order by the Tribunal against the respondent. This was in the sum of £4,091.28. The parties were further agreed that the application be continued to a further CMD in order that the respondent could complete and lodge a time to pay application.

The fresh CMD was scheduled to be heard at 10.00 am on 29 September 2020. This has been intimated to both parties.

No formal time to pay application was received. The respondent advised by email that she could offer £50 per week. She also advised that there may be interruptions to these payments.

The applicants represented their own interests. The respondent did not join the teleconference hearing. She e mailed on the morning to advise that she was ill and would not be participating in the conference call. There was no barrier to her participation by telephone. The hearing commenced at 10.10 am.

FINDINGS AND REASONS

The property is 141 Nigel Rise, Dedridge, Livingston EH54 6LX.

The applicants, Mr Derek Adams and Mrs Nicola Adams, are the former tenants. The respondent, Ms Ann-Marie Love, is the former respondent.

The parties entered into a short assured tenancy which commenced on 16 January 2015. The rent was stipulated at a rate of £750.00 per calendar month. A £750.00 deposit was paid.

The respondent fell into arrears of rent. The arrears started to accrue from November 2019.

The respondent vacated the property in or about February 2020.

The applicants are entitled to recover rent legally due under the lease.

Following her departure, a full inspection was carried out of the condition of the property by the applicants. A substantial amount of damaged items were noted and the cooker was absent. The damaged items included the carpets, and broken doors.

The applicants seek to recover the costs associated with that additional damage caused as a consequence of the respondent's acts and omissions. They are entitled to do so. The damaged and missing items are far beyond what could be accommodated or justified by and under fair wear and tear.

The total of the arrears of rent and the cost of repairing and replacing damaged and missing items within the property was agreed by both parties to total £4,091.28. The respondent participated in the former CMD on 13 August 2020 and clearly agreed to this reduced sum. This reflects the deposit of £750 which was retained.

The Tribunal relied upon and attached weight to the extensive documentary evidence, together with the evidence and submissions by the parties. There was no dispute between them regarding the level of order which the Tribunal should make.

The respondent was afforded the fair opportunity to make a time to pay application. She failed to do so. There was no barrier to her doing so. It was not in the interests of justice to delay matters further to give her a further opportunity to do so which again may not be taken up.

There was no prejudice to the respondent by proceeding to dispose of the case as her offer to make payments was considered in full in any event. The communication from the respondent indicated that her proposal was to pay the total sum of £4,091.28 at the rate of £50 per week. At this rate the sum would take around one and a half years to pay off. The applicants indicated that they would accept instalments at the rate of £50 per week.

The applicants clearly indicated that they would seek to recover the sums due to be paid to them under the payment order by the instalments of £50 per week. They are to make direct contact with the respondent. Clearly if the respondent defaults then the applicants will have the opportunity to recover the full sum forthwith.

No formal time to pay application was made and the Tribunal made a payment order in the full sum of £4,091.28.

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.

R Mill

29 September 2020

Legal Member/Chair

Date