



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/20/0799

Re: Property at 24 East Abbey Street, Arbroath, Angus, DD11 1EN (“the Property”)

Parties:

Mr David Mitchell, Mrs Wendy Mitchell, 16 Parkhill Place, Kirriemuir, Angus (“the Applicants”)

Miss Caitlin Campbell, 24 East Abbey Street, Arbroath, Angus, DD11 1EN (“the Respondent”)

Tribunal Members:

Valerie Bremner (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 in the sum of £ 4390 should be made in favour of the Applicants and against the Respondent.

Background

This is an application for a payment Order which was first lodged with the Tribunal on 6th March 2020. The Application was accepted by the Tribunal on 14th May 2020. The Application was set down for a case management discussion on 14th August 2020.

Case Management Discussion

The Applicants did not attend the case management discussion but were represented by Mr Sutherland of Macnabs LLP solicitors. There was no appearance by or on behalf of the Respondent. The Tribunal had sight of an execution of service of the papers and Application on the Respondent and these had been served by Sheriff Officers on 17th July 2020. Mr Sutherland moved the Tribunal to proceed in the absence of the Respondent and this was agreed by the Tribunal given that the Respondent had

received notice of the case management discussion in terms of Rule 24 of the Tribunal Rules.

The Tribunal had sight of the Application, the tenancy agreement, a statement of arrears, documentation in respect of a request for a possession order which was not relevant to this application and two emails, both dated 29th July 2020, intimating a request to increase the sum being sought in terms of the payment order, one sent to the Respondent and another intimating this request to the Tribunal. This last email was accompanied by an up to date statement of arrears which demonstrated what was said to be rent arrears of £4390 as at 16th July 2020. The Tribunal was satisfied that the request to increase the amount of the payment order being sought from the original amount of £2850 did not constitute a new issue and had been properly and timeously intimated to the Respondent, so could therefore be considered, the terms of Rule 14A of the Tribunal Rules having been adhered to regarding this change.

From the Private Residential Tenancy agreement lodged it could be seen that the tenancy between the parties at the property started on 16th September 2019 and the monthly rent payable was £475.

Mr Sutherland referred the Tribunal to the rent arrears with reference to the original statement of arrears and the updated statement. It could be seen that arrears of the monthly rent of £475 had started in October 2019 and had continued to build up, no rent having been paid since 25th November 2019. Arrears sought covered the period up to and including rent due with effect from 16th July 2020. Mr Sutherland advised the Tribunal that he understood that the Respondent may have lost her job and the arrears were connected to that. He had no information to suggest that the arrears were in any way connected to payment of any benefit and advised that he understood that the Respondent was in the process of leaving the property. Mr Sutherland moved for a payment order in the sum of £ 4390.

The Tribunal was of the view that it had sufficient information to allow a decision to be made and that the procedure had been fair.

Findings in Fact

1. The parties entered into a private residential tenancy at the property with effect from 16th September 2019.
2. The monthly rent agreed to be paid in advance on the 16th of each month was £475.
3. Arrears of rent commenced with effect from October 2019 and no rent has been paid since November 2019.
4. Rent arrears stand at £4390 as at 16th July 2020.
5. The arrears of rent are lawfully due by the Respondent to the Applicants.

Reasons for Decision

The Tribunal was satisfied that the arrears of rent are lawfully due by the Respondent to the Applicants and that it was reasonable to make a payment order in these circumstances.

Decision

The Tribunal makes a payment order in the sum of £4390 in favour of the Applicants and against the Respondent.

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.

Valerie Bremner

Legal Member/Chair

14.8.20

Date