



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/20/1155

Re: Property at 37 West Pilton Street, Edinburgh, EH4 4JQ (“the Property”)

Parties:

Mr Felix Reid, 40 Cammo Road, Edinburgh, EH4 8AP (“the Applicant”)

Nicole S Willis, Mr Callum Edwards, 210 Crewe Road North, Edinburgh, EH5 2NS; 37 West Pilton Street, Edinburgh, EH4 4JQ (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

This is an application for a payment order dated 6th May 2020 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought in his application payment of arrears in rental payments of £3,750.00 in relation to the Property from the Respondents, and provided with his application copies of the private residential tenancy agreement and rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

The Respondents have been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 22nd July 2020, and the Tribunal was provided with the executions of service.

Case Management Discussion

A Case Management Discussion was held at 10.00 on 17th August 2020 by Tele-Conference. The Applicant did not participate, but was represented by Miss Miller, letting agent. The Respondents both participated, and were not represented.

The Tribunal was invited by Miss Miller with reference to the application and papers to grant an order for payment of the sum of £2,975.00. She explained that Mr Edwards had been making payments to reduce the arrears outstanding since the date of the application, but that as of today's date those still amounted to £2,975.00. Rental of £695.00 per month is payable in advance in terms of clause 8 of the private residential tenancy agreement.

The First Respondent, Miss Willis, opposed the granting of the order sought. She explained that she had left the Property in February 2020, and was no longer living there. She felt that as she was no longer living at the Property, she no longer had any responsibility for payment of the rental.

The Tribunal explained that as the tenancy had not been terminated, she remained jointly liable with the Second Respondent for payment of the rental until it was terminated.

The Second Respondent, Mr Edwards, accepted that the current rent arrears figure was £2,975.00. He had attempted to find alternative accommodation, and was making efforts to obtain housing benefit with a view to continuing to reduce the level of arrears.

The Tribunal expressed its sympathy for the Respondents' situation, and explained the possibility of the Respondents seeking a time to pay order to pay the amount awarded in any order by instalments. Miss Miller also indicated that the Applicant was open to the suggestion of reaching agreement with the Respondents for a payment plan to allow them to pay the amount awarded by the Tribunal in instalment payments over a reasonable period of time.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

“First-tier Tribunal's jurisdiction

(1) In relation to civil proceedings arising from a private residential tenancy—
(a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),

- (b) a sheriff does not have competence or jurisdiction.
(2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
(a) the prosecution of a criminal offence,
(b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the rent arrears information provided, and the submissions made by the parties, and was satisfied that these disclosed an outstanding balance of rent arrears of the sum now sought of £2,975.00, which sum remains outstanding.

Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondents jointly and severally to the Applicant of the sum of £2,975.00.

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.

Neil Kinnear

Legal Member/Chair

Date

17.8.2020