



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/20/1305

Re: Property at 81 Blantyre Court, Erskine, PA8 6BP (“the Property”)

Parties:

Mrs Marion Hodgson, 55 Radstock Lane, Early, Reading, RG6 5UL (“the Applicant”)

Mr Alan Aitchison, Unknown, Unknown (“the Respondent”)

Tribunal Members:

Helen Forbes (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 should be granted in favour of the Applicant in the sum of £2948.90.

Background

1. This is an application dated 21st April 2020, made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicant lodged a copy of a private residential tenancy agreement in respect of the Property which commenced on 15th December 2019 at a monthly rent of £550, bank statements, copy agreement between the parties dated 13th December 2019, and a rent statement showing an outstanding balance of £2398.90 in rent arrears. The Applicant is claiming a further £550 paid to Respondent in respect of repairs the Respondent agreed to arrange, but did not do so.
2. A Case Management Discussion (“CMD”) was scheduled for 13th August 2020. By email dated 10th August 2020, the Applicant informed the Housing and Property Chamber (“HPC”) that the Respondent left the Property in or around May 2020, prior to the service of notification of the CMD. The CMD was adjourned to allow an application for service by advertisement.

3. Service by advertisement was carried out on the HPC website from 29th October to 10th December 2020.

Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 10th December 2020. The Applicant was in attendance. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the CMD by service by advertisement and that the requirements of Rule 17(2) had been satisfied and it was appropriate to proceed with the application in the absence of the Respondent.
6. The Applicant said she was requesting an order for payment in the sum of £2948.90, comprised of £2398.90 in rent arrears and £550 paid to the Respondent in respect of repairs that were to be carried out, but did not take place. The Respondent has never paid any rent.
7. The Tribunal had regard to a signed agreement between the parties dated 13th December 2019, whereby the parties agreed that the Respondent would arrange renovation of the bathroom in the Property. The Applicant agreed to pay the sum of £550 to the Respondent to allow him to pay a plumber, and to forgo rental payments to cover the cost of works up to the sum of £2200. A lodged bank statement showed that payment was made by the Applicant to the Respondent in two instalments – £5 on 19th December and £545 on 23rd December 2020. No works were carried out to the bathroom, and the £550 was not used to pay a plumber.

Findings in Fact

8.
 - (i) Parties entered into a private residential tenancy agreement in respect of the Property commencing on 15th December 2019 at a monthly rent of £550. The tenancy ended in or around May 2020.
 - (ii) The Applicant paid the sum of £550 to the Respondent to arrange works to the bathroom of the Property. The Respondent did not arrange any works. The Respondent failed to repay the sum to the Applicant.
 - (iii) Parties agreed the Applicant would forgo rent up to the sum of £2200 if the Respondent arranged renovation of the bathroom in the Property. The Respondent did not arrange renovation and no works took place. The rent, therefore, became due for the duration of the tenancy.
 - (iv) The Applicant is entitled to recover rent lawfully due.

- (v) The Applicant is entitled to recover the sum of £550 following the Respondent's breach of the agreement between the parties.

Reasons for Decision

9. The Respondent has failed to make payment of rent lawfully due. The Respondent has failed to have work carried out, in breach of an agreement between the parties. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties. The Applicant is entitled to recover sums paid out in expectation of work that was not carried out, in terms of the agreement between the parties.

Decision

10. An order for payment is granted in favour of the Applicant in the sum of £2948.90.

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.

Helen Forbes

Legal Member/Chair

10th December 2020
Date