



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/20/1404

Re: Property at 49 Rannoch Drive, Bearsden, Glasgow, G61 2LF (“the Property”)

Parties:

Mr Robert Gil, 2/1, 310 North Woodside Road, Glasgow, G20 6LX (“the Applicant”)

Mr Joseph McKnight, 49 Rannoch Drive, Bearsden, Glasgow, G61 2LF (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicants and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of NINE THOUSAND AND SIXTY FIVE POUNDS (£9065) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. By application dated 23 June 2020, the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

2. The application was accompanied by a copy of a Private Residential Tenancy between the parties signed and dated 1 July 2019 and a rent statement.
3. On 9 September 2020, the Tribunal accepted the application under Rule 9 of the Regulations 2017.
4. On 21 September 2020, the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 20 October 2020. The Respondent required to lodge written submissions by 12 October 2020. This paperwork was served on the Respondent by David A.Orr, Sheriff Officer, Motherwell on 21 September 2020 and the Execution of Service was received by the Tribunal administration.

Case Management Discussion

5. The Tribunal proceeded with the Case Management Discussion on 20 October 2020 by way of teleconference. The Applicant was in attendance and represented himself. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
6. The Tribunal had before it the Private Residential Tenancy between the parties signed and dated 1 July 2019, the original rent statement lodged with the application and 2 further rent statements to 1 September and 1 October 2020.
7. The Applicant asked the Tribunal for an order for payment of arrears in the sum of £10360 which he submitted were the up to date arrears as shown on the rent statement lodged. He had contacted the Respondent for payment, but had had no response to emails, calls or texts.
8. The Tribunal noted that in terms of Clause 3 of the tenancy agreement between the parties the monthly rent due to be paid by the Respondent to the Applicant was £1295. The Tribunal also noted that in terms of the rent statements lodged the Respondent had last paid this rent on 31 January 2020, that no further payments had been made since then and that the arrears at the date of the Application were £6475. The Tribunal also noted that under the rent statement to 1 September 2020 arrears were shown as £9065.

Findings in Fact

9. The Applicant and the Respondent agreed by way of Private Residential Tenancy Agreement dated 1 July 2019 in relation to the Property that the Respondent would pay the Applicant a calendar monthly rent of £1295.
10. The Respondent has fallen into arrears of rent. The last payment to account was on 31 January 2020 when he paid £1295. The Respondent has made no payments of rent since.
11. The arrears as at 23 June 2020, the date of application, were £6475. Arrears as at 1 September 2020 had increased to £9065. Current arrears are £10360.

Reasons for Decision

12. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by the Applicant. The Tribunal noted the content of the rent statements lodged which showed the Respondent had not paid rent since 31 January 2020 as he was required to do under the tenancy agreement and that the amount of arrears was increasing. The Tribunal pointed out to the Applicant that the Respondent had not had notice that the Applicant was seeking payment in the increased sum of £10360 but had been provided with a copy of the rent statement to 1 September 2020 which showed arrears of £9065. The Tribunal was not prepared to grant an order for payment of £10 360. The Applicant had produced evidence of persistent non- payment of rent with reference to the tenancy agreement and the rent statements lodged. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of these documents, together with the Applicant's submissions that the order for payment in favour of the Applicant be granted.

Decision

13. The Tribunal granted an order for payment of £9065.

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.

S. Evans

Legal Member

20 October 2020

Date