



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

Chamber Ref: FTS/HPC/CV/20/1839

Re: Property at 39 Stewart Avenue, Blantyre, Glasgow, G72 0QS (“the Property”)

Parties:

Miss Annette MacMillan, 54 Aberfeldy Avenue, West Craigs, Blantyre, Glasgow, G72 0TB (“the Applicant”)

Ms Charlotte Tucker, 25 Kinnoull Road, Kilmarnock (“the Respondent”)

Tribunal Members:

Susan Christie (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 granted for the Respondent to pay to the Applicant the sum of £3,539.94.

Background

- 1 The Application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) was made by the Applicant, received by the Tribunal on 1 September 2020.
- 2 A Notice of Acceptance of Application is dated 7 September 2020.
- 3 The Application seeks a payment Order for unpaid rent, payment of repairs/damage costs and ancillary expenses incurred and due under the contractual terms of the Private Residential Tenancy.
- 4 A Case Management Discussion (CMD) was scheduled for today by teleconference. The Parties were written to by letter dated 22 September 2020.
- 3 Intimation on the Respondent was made by Sheriff Officer, by way of personal service on 24 September 2020.

- 4 Written responses were due to be submitted by the Respondent by 13 October 2020. On that date, the Respondent submitted a partially completed Application for a Time to Pay Direction.
- 5 The Applicant submitted a response to the Application for a Time to Pay Direction on 19 October 2020.
- 6 Both documents were crossed over to the other Party and they were advised that the matter would proceed to the CMD at which time they should participate by conference call.

The Case Management Discussion

- 7 The Applicant participated. The Respondent did not. I was satisfied that proper intimation of all relevant documentation had been made on the Respondent and that she was told that he should participate and consider her Application for a Time to Pay Direction. I proceeded with the CMD in her absence, the procedure having been fair.
- 8 The paperwork submitted along with the Application was examined and discussed.
- 9 The Applicant is the registered owner of the Property. She is the landlord.
- 10 A Private Residential Tenancy (PRT) was entered into between the Applicant and the Respondent on 10 December 2018. The start date is 3 January 2019.
- 11 The paperwork produced was considered alongside the PRT agreement terms and the Time to Pay Application and Response was then considered.

Findings in Fact

- I. A Private Residential Tenancy (PRT) was entered into between the Parties on 2 on 10 December 2018. The start date is 3 January 2019.
- II. The rent of £650 per calendar month was payable in advance.
- III. A Deposit of £650 was taken.
- IV. An initial payment was made of £1950. Two subsequent payments of £650 were made on 3 March and 3 April 2020.
- V. The Applicant was repaid £650 at the end of the tenancy, the full deposit sum.
- VI. The tenancy ended around 8 August 2019, when the Respondent left the Property.
- VII. The Outstanding rent due and unpaid after deduction of the Deposit is £1950.
- VIII. The cost of repairs to the Property for which the Respondent is liable is £1204.94
- IX. The repainting costs to the Property for which the Respondent is liable is £205.
- X. The Sheriff Officers costs that the Applicant is entitled to recover from the Respondent is £180.
- XI. The total sum due and payable by the Respondent to the Applicant is £3,539.94.

Reasons for Decision & Decision

A Private Residential Tenancy (PRT) was entered into between the Parties on 2 on 10 December 2018. The start date is 3 January 2019.

The contractual terms of the PRT require the Respondent to pay rent on the due date and pay a deposit of £650. In terms of the Rent Schedule produced the total amount of unpaid rent less the recovered Deposit is £1950.

The contractual terms of the PRT require the Respondent to pay for any repairs or replacement of contents or damage to the condition of the Property where the need for them is attributable to the tenant's fault or negligence, fair wear and tear excepted. Two Schedules were produced evidencing the condition of the Property at the outset and at the end. Invoices were produced for the costs incurred in repairing, cleaning, replacing missing items and tidying up the garden and removal of rubbish and belongings. The total sums due being £1204.94 and £205.

The Sheriff Officers costs that the Applicant is entitled to recover from the Respondent under the PRT is £180.

I was not prepared to grant an Order for repayment of the remaining sums sought as there was no contractual basis for them to be recovered and no liability.

The total sum due and payable by the Respondent to the Applicant is £3,539.94. I grant an Order for that amount.

I then considered the Time to Pay Application Form that had been submitted. The offer to pay was at £15 per month. This was rejected by the Applicant in the Response Form. I can make a Time to Pay Direction if I am satisfied that it is reasonable to do so. I had regard to the nature and reasons for the debt, the fact that the Respondent was now in a difficult financial position and that it would take the Respondent many years to repay the debt due at the sum proposed. I decided that the Time to Pay Application should be refused as it would take many years to repay the debt and overall having regard to the information in both forms that it would not be reasonable to accept the proposal. Accordingly, no time to pay direction is made.

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. Christie

Legal Member/Chair

21 October 2020
Date