



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/20/1860

Re: Property at 45 Balcastle Gardens, Kilsyth, G65 9PE (“the Property”)

Parties:

Mr Daniel Gallagher, 35 Ladeside Drive, Kilsyth, G65 0JW (“the Applicant”)

Mr Robert Rough, 9 Hamill Drive, Kilsyth, G65 0EQ (“the Respondent”)

Tribunal Members:

Richard Mill (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 against the respondent in the sum of Two Thousand Three Hundred and Seventy Five Pounds Sterling (£2,375) together with interest at the rate of 3% per annum until payment

Introduction

This is an application under Rule 111 and Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Service of the application and intimation of the Case Management Discussion (CMD) was effected upon the respondent by Sheriff Officer delivery on 2 October 2020.

The CMD was listed for 11.30 am on Monday 2 November 2020. The applicant joined the teleconference hearing personally and represented his own interests. The respondent failed to join the teleconference hearing. There was no barrier to him doing so. The Tribunal commenced consideration of the merits of the application at 11.40 am.

Findings and Reasons

The property is 45 Balcastle Gardens, Kilsyth G65 9PE.

The applicant is Mr Daniel Gallagher. He is the former landlord. The respondent is Mr Robert Rough. He is the former tenant.

The parties entered into a private residential tenancy in respect of the property which commenced on 23 April 2019. The rent was stipulated at £495 per calendar month. A deposit of £495 was also paid. A copy of the written lease has been produced.

The respondent fell into arrears of rent. He has now vacated the property. He abandoned the property and was no longer in possession of it as at 31 August 2020.

The applicant seeks to recover the rent arrears which had accrued prior to the respondent's departure from the property. In the written application he seeks a payment order for the sum of £2,870 plus interest.

The application is accompanied by a detailed rent statement which discloses that six monthly payments of due rent were not paid prior to the respondent vacating the property. An extra £100 was paid towards the arrears one month. The total sum of the arrears outstanding as at 25 August was £2,870.

The applicant is entitled to recover arrears of rent lawfully due under the lease. The Tribunal attached weight to the documentary evidence, together with the submissions made on behalf of the applicant which were all found to be credible and reliable and were unchallenged.

The applicant disclosed that he had recovered the full deposit of £495. After checking with his letting agent, who had processed the deposit scheme application, he confirmed that the return of the deposit was directly related to unpaid rent. In the circumstances the total sum sought in rent arrears was reduced to £2,375.

The applicant has also sought interest on the payment order. This is reasonable. The current rate borrowing rate for short-term commercial loans is approximately 3% per annum and that is an appropriate rate of interest to be imposed by the Tribunal.

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.

Richard Mill

2 November 2020

Legal Member/Chair

Date