



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/20/2262

Re: Property at 38 Fairisle Place, Lossiemouth, Morayshire, IV31 6RN (“the Property”)

Parties:

Ms Kateriona Bayliss, 31A North Bridge, Bathgate, West Lothian, EH48 4PJ (“the Applicant”)

Iona Stewart, Mr Conor Stewart, 38 Fairisle Place, Lossiemouth, Morayshire, IV31 6RN (“the Respondents”)

Tribunal Members:

Neil Kinnear (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Respondents)

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

Background

This is an application for a payment order dated 27th October 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 her application payment of arrears in rental payments of £2,380.00 in relation to the Property from the Respondents, and provided with her application copies of the private residential tenancy agreement and rent arrears statement.

The Applicant subsequently on 23rd November 2020 amended the sum sought in this application in terms of Rule 14A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended to £2,975.00.

Thereafter, the Applicant on 22nd December 2020 further amended the sum sought in this application to £3,570.00, which amended figure represents the total arrears of rent calculated to the date of the amendment, and its calculation is shown on an updated rent arrears statement which the Applicant provided.

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 had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 11th December 2020, and the Tribunal was provided with the executions of service.

Hearing

A Hearing was held at 10.00 on 20th January 2021 by Tele-Conference. The Applicant participated, and was accompanied by her father, Mr Gault, as a supporter. The Applicant was represented by Mr Runciman, solicitor. The Respondents did not participate, nor were they represented. The Respondents have not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by Mr Runciman with reference to the application and papers to grant an order for payment of the sum of £3,570.00.

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 Mr Runciman, and was satisfied that these disclosed an outstanding balance of rent arrears of the sum now sought of £3,570.00, which sum remains outstanding. Rental of £595.00 per month is payable in advance in terms of clause 8 of the private residential tenancy agreement.

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 £3,570.00.

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

Neil Kinnear _____
Legal Member/Chair

20 January 2021 _____
Date