



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing Scotland Act 2014.

Chamber Ref: FTS/HPC/CV/21/0072

Re: Property at 35 Arran Drive, Johnstone, PA5 8PR (“the Property”)

Parties:

Mr Kevin Di Ciacca & Mrs Maureen Di Ciacca, 84 Maxwellton Road, Paisley, PA1 2RD (“the Applicants”)

Mr Paul Cochrane & Mrs Tracey Cochrane nee Steel, 4 Burnhaven, Erskine, Renfrewshire, PA8 6DS; 4 Burnhaven, Erskine, Renfrewshire, PA8 6DS (“the Respondents”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) decided to grant a payment order in the sum of £2,556.00.

Background

1. On 8 December 2020 an application was made for a Payment Order in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Application for civil proceedings in relation to a Private Residential Tenancy). I am satisfied that Section 71 of the Private Housing Tenancies Scotland Act 2016 provides jurisdiction for me to deal with this matter.
2. The application for a payment order represented rent arrears in the sum of £2,556.00.

Findings in Fact

1. The Applicants are Mr Kevin Di Ciacca and Mrs Maureen Di Ciacca. They are the rightful owners and landlords of the property at 35 Arran Drive, Johnstone, PA5 8PR.
2. On 24 October 2017 the Respondent Tenants, Mr Paul Cochrane and Miss Tracy Steel entered into a Private Residential Agreement with the owners and landlords to rent the property at 35 Arran Drive, Johnstone, PA5 8PR.
3. The sum due in rent was £545 per calendar month.
4. Rent arrears have accrued in the sum of £3,101.00 as per schedule attached to the application FROM 24 August 2018 to 10 October 2020.
5. The Applicants have recovered the deposit and deducted that from the rent arrears leaving the sum of £2,556.00 outstanding.
6. The Respondent Tenants are in breach of the terms of the agreement by failing to pay rent when due. The Respondents missed rent payments at various times from 24 August 2018 to 24 September 2020 and failed to bring their account up to date.

Reasons

1. On 8 December 2020 an application was made for a Payment Order in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Application for civil proceedings in relation to a private residential tenancy). I have jurisdiction to deal with this matter under Section 71 of the Private Housing Tenancies Scotland Act 2016.
2. I have considered the application dated 8 December 2020, alongwith all accompanying papers, including the tenancy agreement and schedule of rent payments and arrears. I have also considered the Certificate of Service and enclosures served by Sheriff Officers on 23 February 2021 on the Respondent Mrs Cochrane personally within her dwelling place at 4 Burnhaven, Erskine, Renfrewshire, PA8 6DS. I am satisfied that The Respondents have been properly notified of the application. I am satisfied The Respondents have been provided with all relevant documents, including the rent arrears schedule, a

copy of the application, tenancy agreement and been properly notified of today's Case Management Discussion.

3. I decided to proceed in The Respondents absence as I was satisfied that The Respondents were properly notified of the application and hearing and had made no contact with The Chamber. I had regard to the overriding objective. I was satisfied that it was fair and just to proceed.
4. The Case Management Discussion (CMD) took place remotely by teleconference on 26 March 2021. There were no apparent difficulties with sound or connectivity issues. I am grateful for the patience and understanding shown by those present which allowed the Case Management Discussion to proceed remotely during the current pandemic. I am satisfied those taking part in the discussion had a reasonable opportunity to put their points across and that the Case Management Discussion was fair and just. No complaint about the lack of effective participation caused by the remote hearing was brought to my attention.
5. The Applicants confirmed that they were seeking a Payment Order in the sum of £2,556.00 which represented arrears of rent for the period from 24 August 2018 to 10 October 2020. Mr Di Ciacca brought my attention the text exchanges between him and the Respondents which demonstrate that The Applicants tired their best to engage with The Respondents and reach an agreement. The Respondents either replied that they would bring the rent account up to date and then fail to do so or ignore the texts completely. The Respondents have not made any attempt to meet the outstanding rent liabilities since 24 September 2020.
6. It is The Applicants' position that they seek the order for full payment in the sum of £2,556.00. They wish to take enforcement action immediately, given the length of time the arrears have been outstanding.
7. It is clear that The Respondents have made no attempt to meet their rent liability in full, from the 24 August 2018. They have delayed excessively in trying to resolve this matter in any satisfactory way. As at the date of the CMD, The Respondents had still not put forward any proposal to meet the sums due.
8. Having considered all the papers before me, along with the submissions by the Applicants, I decided that it was reasonable to grant the Payment Order in the sum of £2,556.00.

9. I was satisfied that I could decide the application at the Case Management Discussion as Rule 17(4) permits and it was fair and just to do so.

Decision

The Respondents have to pay The Applicants the sum of £2,556.00.

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.

LA Mulholland

26 March 2021

Lesley Ann Mulholland
Legal Member

Date