



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/21/0344

Re: 19 Wood Drive, Whitburn, West Lothian, EH47 0ND ("the Property")

Parties:

Ashley Millan Ltd of 1 Regent Street Lane, Edinburgh, EH15 2AL ("the Applicant")

Duncan Woods residing at 19 Wood Drive, Whitburn, EH47 0ND ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

Background

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent in the sum of £2350 being the sum outstanding as at 1st February 2021.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicants were:

2.1 A copy of the Tenancy Agreement.

2.2 Rent Statement

2.3 Letters from the Applicant to the Respondent regarding the rent arrears dated 25th September 2020, 2nd November 2020 and 17th November 2020.

2.4 Up dated rent statement for the period 17th February 2020 to 1st April 2021.

3. Requirements of Section 111 of the Procedure Rules.

3.1 In connection with the requirements of section 111 the Tribunal determined that the application correctly detailed the requirements of section 111(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name and address of the Applicant.
- (ii) the name and address of the Respondent.
- (iii) the reason for making the application.

3.2 The Tribunal also confirmed that the application had been accompanied by the documents specified in **Section 111(b) (i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statements of rent arrears.

4. First Case Management Discussion

This case called for a conference call Case Management Discussion (CMD) at 14.00 on 14th April 2021.

Mrs Ashley Millan attended on behalf of the Applicants. The Respondent did not attend and was not represented.

Andrew Harrison, Sheriff Officer, had served the Respondent with a letter confirming the details of the CMD on 11th March 2021.

The Tribunal were satisfied that Tribunal Rule 29 had been complied with and proceeded with the CMD.

The Respondent had not provided any written representations.

4.1 Mrs Ashley Millan confirmed the following facts, which were accepted by the Tribunal:

4.1.1 The Applicant is the Landlord of 19 Wood Drive, Whitburn, EH4 0ND being the subjects registered in the Land Register of Scotland under Title Number WLN12897 ('the Property').

4.1.2 The Respondent is the Tenant of the Property in terms of the Private Residential Tenancy between the parties dated 17th February 2020.

4.1.3 The Tenancy commenced on 17th February 2020.

4.1.4 The rent due in terms of the tenancy was £450 per month payable in advance.

4.2 Mrs Ashley Millan advised that Tribunal that the current arrears amounted to £3250 but she had not had time to lodge an application to amend the sum sought. The arrears at 1st February 2021 amounted to £2350 and she had provided the rent statement which evidenced the arrears that are due. She explained that the Respondent had advised her that he would be vacating the property in three weeks' time. In the

circumstances she sought a continuation to enable her to amend the application, to increase the sum sought.

4.3 Mrs Taylor explained to Mrs Ashley Millan the provisions of Tribunal rule 14A which requires that any amendment to the application must be intimated to the other party and the Tribunal at least 14 days prior to a case management discussion or hearing.

4.4 In the circumstances the case management discussion was adjourned to allow time for the Applicant to intimate that she is amending the sum claimed (in terms of Tribunal Rule 14A).

5. Amendment of the Application

Mrs Ashley Millan sent the Tribunal Administration an email dated 15th April 2021 advising that she wishes to amend the Application to increase the sum sought to £3250. A copy of the up dated rent statement was provided. She confirmed that she had intimated the amendment to the Respondent. The Tribunal Administration sent the Respondent a copy of the email from the Applicant regarding the increase of the sum sought to £3250 by recorded delivery letter dated 16th April 2021. The Respondent signed for the letter on 17th April 2021.

6. Second Case Management Discussion

6.1 This case called for a conference call Case Management Discussion (CMD) at 10.00 on 24th May 2021.

Mrs Ashley Millan attended on behalf of the Applicant. The Respondent did not attend and was not represented.

The Tribunal Administration sent the Respondent a recorded delivery letter confirming the details of the CMD on 21st April 2021. The Respondent signed for the letter on 22nd April 2021.

The Tribunal were satisfied that Tribunal Rule 29 had been complied with and proceeded with the CMD.

The Respondent had not provided any written representations.

6.2 Mrs Ashley Millan advised the Tribunal that the Respondent had vacated the Property on 30th April 2021. The updated rent statement provided to the Tribunal was for the period to 30th April 2021 and showed that the outstanding rent amounted to £3250. She explained that the Respondent had paid a deposit of £450 at the commencement of the tenancy but she has applied to the tenancy deposit scheme for her to receive payment of the deposit to as she had incurred £1365 of costs at the end of the tenancy.

7. Decision

7.1 The Tribunal accepted as correct the evidence of the rent statement produced which showed the outstanding rent to be £3250, a copy of which had been provided to the Respondent.

7.2 The Tribunal determined that the outstanding rent due by the Respondent amounted to £3250 and accordingly they issued an Order for Payment in this sum.

8. 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.

J. Taylor Legal Member

24th May 2021