



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/21/0438

Re: Property at 237 Victoria Road, Torry, Ground Floor right, Aberdeen, AB11 9NQ (“the Property”)

Parties:

Mr Peter Cumming, 13 Ripon Way, Jersey Farm, St Albans, AL4 9AJ (“the Applicant”)

Mr Symon Gilbride AKA Symon or Simon Sampson, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondent shall make payment to the applicant the sum of two thousand two hundred and seventy five pounds (£2275).

Background

1. This was a case management discussion ‘CMD’ regarding an application in terms of s71 of the Private Housing (Tenancies) (Scotland) Act 2016, ‘the Act’ and rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ to recover rent arrears arising out of a private residential tenancy ‘PRT’. The applicant attended. The respondent did not attend, and he was not represented. The tribunal has sight of the service by advertisement certificate and proceeded with the CMD in terms of rule 24 and 29 of the rules.

2. The tribunal had before it the following copy documents:
- (1) Application dated 22 February 2021.
 - (2) PRT dated 8 and 16 March 2018.
 - (3) Rent statement with arrears as at 19 February 2021.
 - (4) Land certificate.
 - (5) Attachments to application.
 - (6) Letter from the tribunal chamber to applicant dated 12 March 2021.
 - (7) Email from application in answer received 16 March 2021.

Preliminary matters.

3. The tribunal noted that the application refers to arrears of rent of £1597.50 in his original application and the rent statement refers to rent arrears of £2365. Further, the monthly rental payment in the rent statement and PRT is £325 whereas the documentation in support of the original application refers to the respondent making payments of £355 in July August and September 2020. The rent statement refers to the respondent making payment of £325 for July, August and September 2020. Mr Cumming stated that the documents in support of the application which make reference to payment of £355 for July August and September 2020 are screen shorts of his on line banking. He was unable to account for the difference between the rent statement and the sums paid by the respondent for those three months, other than it being an error on his part. He was confident that the remainder of the rent statement was correct, and an accurate reflection of the sums owed. He was content for the sum of £90 to be deducted from the sum sought leaving a balance due of £2275.

Discussion

4. Mr Cumming stated that the PRT was entered into in March 2018 and rent arrears began to accrue in September 2018. A further month's rent was left unpaid in December 2018 and no rent was paid from October 2020 onwards. Mr Cumming stated that the respondent repeatedly told him he was unable to make payment of rent due to difficulties with his bank account and he was in touch with the financial ombudsman as a consequence. In January 2021 Mr Cumming attended at the property and found the keys pushed through the letter box. Given the terms of tenancy agreement and in particular clause 24 (which provides for the tenant giving the landlord 28 days notice of his intention to terminate the tenancy), he was seeking rent for 28 days in lieu of notice.

5. Findings in fact

- (1) The applicant is the owner of the property.
- (2) The parties entered into a PRT in March 2018 for let of the property.
- (3) The tenancy commenced on the 23 March 2018.
- (4) The agreed rent was £325 per month.
- (5) Arrears began to accrue in September 2018.
- (6) The arrears as at 19 February 2021 were £ 2275.
- (7) The tenancy came to an end on 19 February 2021.
- (8) The sum of £3411 remains outstanding.

6. Reasons

This is an undefended application to recover rent arrears arising out of a PRT. The tribunal was satisfied that it had sufficient information before it to make a decision and the procedure had been fair. The tribunal accepted the applicant's submission in relation to the rent arrears and how the sum of £2265 had been arrived at, subject to the deduction of £90 to cover the discrepancy between the applicant's online banking receipt and the rent statement. The tribunal accordingly made an order for the sum of £ 2275.

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.

L Ward

12 August 2021

Lesley A Ward Legal Member

Date