



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (Act)

Chamber Ref: FTS/HPC/CV/21/0461

Re: Property at 60 Main Street, Ochiltree, KA18 2PB (“the Property”)

Parties:

Mrs Helen McFarlane, 8 Townfoot, Dreghorn, KA11 4EG (“the Applicant”)

Mr John Pllu, Ms Grace Campbell, Oxenshaw Farm, Sorn, Mauchline, KA5 6HQ (“the Respondent”)

Tribunal Members:

Alan Strain (Legal Member) and Linda Reid (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment be granted in the sum of £2,994.66.

Background

This is an application under Rule 111 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (Rules)* and section 71(1) of the Act in respect of a claim for payment of alleged rent arrears of £2,544.66.

The Tribunal had regard to the following documents:

1. Application dated 23 February 2021;
2. PRTA commencing 10 January 2018;
3. Rent Statement;
4. Written Representations from the Respondent comprising multiple emails to the Tribunal and email exchanges between the Parties;
5. Written Submission from the Applicant dated 19 May 2021;

6. Photograph of the Property produced by the Respondent, bank statement and spreadsheet in respect of the rent.

The case had called for a CMD by conference call on 21 April 2021. The Tribunal had identified the issues for determination at the hearing as follows:

1. Whether or not the Parties agreed that the sum of £50 per month was in respect of rent of the paddock;
2. If so, were the Respondents denied use of the paddock and entitled to reduction in the rent payable of £50 per month for the duration of the tenancy;
3. What was the end date of the tenancy;
4. Exactly how much rent did the Respondents pay over the period of the tenancy.

Hearing

The Applicant participated and represented herself. The Respondents participated and represented themselves.

The Tribunal set out the process to be followed at the hearing.

The Applicant gave evidence to the effect that the rent included use of the paddock, the Respondent had never been denied access to it and rent arrears were due in the sum claimed. She explained that the Respondent was calling the field at the back of the Property the paddock. In fact what had been let was the paddock to the left of the Property which the Respondent had full use of. There had never been any agreement to the effect that the field at the back was to be rented at £50 per month.

The end date of the tenancy was 18 August 2020. The amount of rent due was as stated in the rent statement produced by Property Matters. The Tribunal put the Respondent's bank statement to the Applicant and asked if she accepted that a payment of £1000 was made on 22 May 2020. She said that it had not and the rent statement was accurate.

The Applicant's ex-husband gave evidence to corroborate the fact that the rent included use of the paddock at the left of the Property and that access had never been denied. The field at the back of the Property had never been let at £50 per month.

The Respondent's position was that they had agreed with the Applicant, her husband and Jonathan from her agents (Property Matters) at the Property when they viewed it prior to commencement of the tenancy that the rent would include £50 per month for the paddock. The paddock was the field at the back of the Property and not to the left of the Property as claimed by the Applicant. They had been denied use of the paddock for the duration of the tenancy and therefore claimed £50 per month deduction in the amount of rent claimed due.

The Respondent contended that the rent due and paid was as set out in the spreadsheet produced. This showed that the total rent due (under deduction of £50 per month for the paddock) was £16,181.15. The Respondent had paid £15,500 so that left £681.15 due.

The payment of £1000 on 22 May 2020 had not been taken into account in the rent statement produced by the Applicant. The Applicant had recorded this as a payment of £550.

After hearing from the Parties and considering the documentary evidence the Tribunal made the following findings in fact:

1. The Parties let the Property under a PRTA commencing 10 January 2018;
2. The rent due was initially £650 per month reducing to £550 per month from 10 April 2020 until the termination of the tenancy on 18 August 2020;
3. The rent included use of the paddock to the left of the property and there was no agreement between the Parties as to any sum of money attributable to use of the paddock;
4. The Respondent paid the sum of £1000 to the Applicant's agents on 22 May 2020;
5. The Respondent was in arrears of rent in the sum of £2,544.66 at the end of the tenancy;
6. The Respondent was not denied use of or access to the paddock to the Property;
7. The Respondent is due to pay the Applicant the arrears of £2,544.66.

The Tribunal accordingly granted the order for payment sought in the sum of £2,544.96.

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.

1 June 2021

Legal Member/Chair

Date