



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) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/21/0730

Re: Property at 15 Lochside Crescent, Montrose, DD10 9BF (“the Property”)

Parties:

Mr Fraser Wilson, residing at Caraid, Brechin Road, Montrose, DD10 9LE (“the Applicant”) per his representative Mrs Grace Wilson residing at Caraid, Brechin Road, Montrose, DD10 9LE (“the Applicant’s Representative”)

Miss Michelle Furey and Mr Bruce Wilkie, both residing at Kirkhall, Bridge End of Lintrathen, Kirrimuir, DD8 5JH (“the Respondents”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment for TWO THOUSAND ONE HUNDRED AND SIXTY TWO POUNDS AND TWENTY TWO PENCE (£2,162.22) STERLING.

Background

1. By application received between 25 March 2021 and 12 May 2021 (“the Application”), the Applicant’s Representative on behalf of the Applicant made an application to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Chamber”) for a payment order for the sum of £2,162.22 in rent due and owing together with factoring fees of £108.00 arising from a private residential tenancy agreement (“the PRT”) between the Parties. The Application comprised an application form, copy of the PRT and copy rent statement in respect of the PRT.
2. On 20 May 2021, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 30 June 2021 at 11.30 by telephone conference call. The Application was served on the Respondents by Sheriff Officers on 28 May 2021.

Case Management Discussion

3. The CMD took place on 30 June 2021 at 11.30 by telephone conference call. The Applicant did not attend and was represented by the Applicant's Representative. The Respondents did not attend and were not represented.
4. At the CMD, the Applicant's Representative advised the Tribunal that the sum of £2,162.22 in rent remained due and owing and that an Order for this sum was sought. With regard to the factoring fees, although the Applicant's Representative advised that these also remain due and owing, the Applicant's Representative accepted that as there is no obligation to pay these fees is included in the PRT, an Order cannot be granted and so sought an Order for the rent only.

Findings in Fact

5. From the Application and the CMD, the Tribunal found the following facts to be established: -
 - i) There was a private residential tenancy agreement between the Parties in respect of which the monthly rent was £935.00;
 - ii) The Respondents underpaid the rent due from September 2020 until they vacated the Property on or around 26 April 2021;
 - iii) Rent of £2,162.22 is due by the Respondents to the Applicant to 26 April 2021;

Decision and Reasons for Decision

6. Having found at the CMD that rent amounting to £2,162.22 is due and owing by the Respondents to the Applicant and having regard to Rule 17(4) of the Rules which states that the Tribunal "may do anything at a case management discussionincluding making a decision" , the Tribunal proceeded to make an order for payment in this sum.

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.

Legal Member: Karen Moore

Date: 30 June 2021

K.M.