



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/21/0771

Re: Property at 52 Carrick Knowe Hill, Edinburgh, EH12 7BU (“the Property”)

Parties:

Pauline Gillies, 132 St Johns Road, Costorphine, Edinburgh, EH12 8AX (“the Applicant”)

Mrs Donna Mulvaney or Mulvane, 74 Main Street, Winchburgh, Broxburn, West Lothian, EH52 6RF (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £6295.89.

Background

1. This is an application received on 25th March 2021 seeking an order for payment under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Rules”). The Applicant was seeking an order for payment in the sum of £7195.89 in respect of rent arrears. The Applicant’s representative lodged a copy of a private residential tenancy agreement between the parties in respect of the Property that commenced on 1st November 2018, together with a rent statement.
2. Notification of the application and Case Management Discussion set down for 13th May 2021 was served by Sheriff Officers on the Respondent on 13th April 2021.
3. By email dated 27th April 2021, the Applicant’s representative made an application to amend the sum sought to £5995.89 in respect of rent arrears,

and £300 in respect of legal costs incurred in raising the application and attending a Case Management Discussion.

Case Management Discussion

4. A Case Management Discussion (“CMD”) took place by telephone conference on 13th May 2021. The Applicant was not in attendance and was represented by Mr Scott Runciman, Solicitor. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29 of the Rules. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the Hearing, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 17(2) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant and the material before the Tribunal.
6. Mr Runciman moved the Tribunal to grant an order in the amended sum. The application to amend had been served upon the Respondent timeously by email. The tenancy agreement provided at clause 8 that the tenant would be held liable for reasonable costs incurred by the landlord through the tenant’s failure to pay rent on time, including legal costs. The tenancy ended on 9th February 2021.

Findings in Fact

7.
 - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 1st November 2018 with an agreed rent of £1000 per month. The tenancy ended on 9th February 2021.
 - ii. Rent lawfully due in terms of the tenancy agreement was not paid by the Respondent.
 - iii. The Applicant is entitled to recover rent lawfully due.
 - iv. In terms of the tenancy agreement between the parties, the Applicant is entitled to recover reasonable costs due to the Respondent’s failure to pay rent on time.

Reasons for Decision

8. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties. The Applicant is entitled to recover reasonable legal costs due to the Respondent’s failure to pay rent on time, in terms of the tenancy agreement between the parties.

Decision

9. An order for payment is granted in favour of the Applicant in the sum of £6295.89.

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.

Helen Forbes
Legal Member/Chair

13th May 2021
Date