Housing and Property Chamber
First-tier Tribunal for Scotland

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) 2016

Chamber Ref: FTS/HPC/CV/21/1328

Re: Property at 4 Douglas Terrace, Bo'Ness, EH51 0LA ("the Property")

Parties:

Dr Virginia Cano, Mr Austin Reid, 48 Philpingstone Rd, Bo'Ness, EH51 9JN ("the Applicants")

Mr David Mulholland, Ms Chantelle Marshall, 4 Douglas Terrace, Bo'Ness, EH51 0LA ("the Respondents")

Tribunal Members:

Rory Cowan (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that a Payment Order in the sum of £3,300 should be granted.

- Background

By application dated 2 June 2021 (the Application), the Applicants sought a Payment Order for £1,650 against the Respondents relative to rent arrears in relation to the Property. Various supporting documents were lodged including the following:

1) Copy lease;
2) Rent statement; and
3) Bank Statements.

A Case Management Discussion (CMD) was heard by way of conference call on 4 August 2021 to be heard by way of conference call. That CMD was continued as the Applicants indicated that they wished to seek to amend the Application to reflect increased arrears under Rule 14A of the Tribunal's rules of procedure.

A further CMD was fixed for 8 September 2021 again to be heard by way of conference call. Parties were notified of the date and time of this further CMD. By email dated 4 August 2021 the Applicants initiated an application to amend the claim amount to £3,850 based on 7 months arrears. Prior to the CMD on 8 September 2021, by email dated 4 September 2021 an uptodate rent schedule showing rent arrears of £3,300 as at 1 September 2021 was submitted along with further documents.

- The Case Management Discussion

At the CMD on 8 September 2021, the Applicants appeared and represented themselves personally. Neither Respondent appeared nor were represented. The Tribunal was satisfied that they had been made aware of the date of the CMD on 8 September 2021 and were aware of same and their requirement to attend. Intimation of the date and Application had been made by recorded delivery letter dated 9 August 2021 which had been successfully delivered. As such, the Tribunal was content to proceed with the CMD in their absence.

The Applicants confirmed that the current arrears were £3,300 rather than the £3850 that had been intimated. Mr Reid indicated that there were 6 months arrears rather than the 7 months suggested in the amendment application. There being no prejudice to the Respondents in reducing the amount sought, the Tribunal agreed to amend the sum sought by the Application to £3,300. Thereafter, the Tribunal granted the Application as amended.

- Findings in Fact

1) The Applicants and Respondents entered into a tenancy agreement relative to the Property.
2) In terms of the tenancy agreement between the Applicants and Respondents rent is payable at the rate of £550 per calendar month in advance and due on the 1st of every month.
3) As at 1 September 2020, the Respondents are in rent arrears to the extent of £3,300.

- Reasons for Decision

Under the lease between the parties, the Respondents are due to pay rent relative to the Property at the rate of £550 per month. As at 1 September 2021 they are in arrears to the extent of £3,300.

- Decision

A Payment Order in the sum of £3,300 is granted against the Respondents in favour of the Applicants.

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.

_____   8 September 2021
Legal Member/Chair   **Date**