



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/21/1607

Re: Property at 25 (1F) Regent Quay, Aberdeen, AB11 5AH (“the Property”)

Parties:

DDCL Gowans Properties (Dean J R Gowans), 33 Carfrae Road, Edinburgh, EH4 3QG (“the Applicant”)

Emilio Jose Rozas Lima, 7/8 Tyler Gardens, Edinburgh, EH8 8HS (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment of £666.12 (SIX HUNDRED AND SIXTY SIX POUNDS AND TWELVE PENCE).

1. An application was received by the Housing and Property Chamber dated 6th July 2021. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. A Case Management Discussion was fixed for 17th September 2021 at 10am by teleconferencing. However, this case was conjoined with HPC/PR/21/1206 and this case had not been set to be heard with it on that date. The CMD was postponed to allow the cases to be conjoined. A new date of 1st November 2021 at 10 am by teleconferencing was fixed for the CMD.

3. Sheriff officers then tried to serve the papers upon the Respondent on 23 September but were unable to serve the papers as the Respondent had moved. The Respondent was then emailed all the papers on 11th October 2021 as there was no up dated address provided. A delivery receipt on outlook stated that the delivery was complete.

The Case Management Discussion

4. A CMD was held 1st November 2021 at 10am by teleconferencing. The Applicant was represented by Mr Dean Gowans. The Respondent was present and represented himself.
5. The Respondent stated that he did not owe the whole amount of the arrears. He agreed he owed £266.12. He told the Tribunal that he made a payment in cash to the Applicant's representative at the Property in April 2021. He is not able to prove this he took his money from his Spanish bank account. He told that the Tribunal that the Spanish banking system is different from the British banking system. He was not able to make an online transfer and did not have a record of taking the cash out of his bank.
6. The Applicant's representative stated that he did not receive that amount of money. He sends email receipts for all cash received. The Respondent confirmed that he did receive email receipts of the other payments he had made. The Respondent stated that he had handed the money over at the Property. The Applicant also noted that the Respondent had been decanted to a property in King Street while repairs were done and so would not have taken any money from him at the Property. The Respondent noted that he simply used the water in King Street and returned to the Property to live.
7. The Tribunal enquired whether the Respondent had any way of proving this payment. He confirmed that he did not. He did not have any witnesses to it being paid. The Tribunal considered if fixing a hearing would be appropriate but did not consider it to be appropriate as there would be no further evidence led.
8. The Tribunal was satisfied, on balance, that the outstanding amount for £666.12 was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 4th December 2020.
10. The Respondent persistently failed to pay his rent charge of £250 per month. The rent payments are due to be paid on 1st day of each month.

11. The arrears sought total £666.12.

Decision

12. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £666.12.

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.

Gabrielle Miller

01/11/2021

Legal Member/Chair

Date