



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/1688

Re: Property at 287 3/1 Hilltown, Dundee, DD3 7AP (“the Property”)

Parties:

Nimbus Properties Limited, c/o Pavillion Properties, 86 Bell Street, Dundee, DD1 1HN (“the Applicant”)

Ms Samantha Whyte, 287 3/1 Hilltown, Dundee, DD3 7AP (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order in the sum of Two thousand eight hundred and thirty one pounds and eighty six pence (£2,831.86) against the Respondent

- 1 By application to the Tribunal the Applicant sought an order for payment of rent arrears against the Respondent. In support of the application the Applicant provided copy Private Residential Tenancy Agreement between the parties and Rent Statement.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for the 8 September 2021 to take place by teleconference due to the restrictions imposed by the Covid-19 pandemic. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers.

- 3 By letter dated 6 September 2021, Ms Rebecca Menzies of Dundee Law Centre intimated to the Tribunal that she had been instructed by the Respondent. She sought an adjournment to take full instructions and investigate the issues with the rent arrears. The Tribunal duly agreed to the postponement and a further Case Management Discussion was assigned for 19 October 2021.
- 4 On 18 October 2021 Ms Menzies submitted written representations on the Respondent's behalf. In summary Ms Menzies advised that the Respondent did not object to the granting of the order and accepted the arrears were due.

The Case Management Discussion

- 5 The Case Management Discussion took place by teleconference on 19 October 2021. The Applicant was represented by Ms Robyn Dolan. Ms Rebecca Menzies was present on behalf of the Respondent.
- 6 Ms Dolan confirmed that the Applicant sought an order for payment of rent arrears. The arrears were now £3,248.72. Whilst some payments of universal credit were being made, these were not meeting the monthly rent. The Applicant had made efforts to advise the Respondent and provide her with the opportunity to enter into payment arrangements to no avail. The Applicant was keen to agree an arrangement with the Respondent for payment of the outstanding balance. Ms Dolan confirmed that no deposit had been paid in respect of the tenancy.
- 7 Ms Menzies confirmed that the Respondent did not object to the order being granted.

Findings in Fact and Law

- 8 The parties entered into a Private Residential Tenancy Agreement dated 7 August 2019.
- 9 The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
- 10 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £345 per month.
- 11 As at 1 July 2021 arrears in the sum of £2,831.86 were outstanding.
- 12 The Respondent is liable to make payment to the Applicant in the sum of £2,831.86.

Reasons for Decision

- 13 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties.
- 14 The Tribunal accepted that there were rent arrears outstanding in the sum of £2,831.86 as at 1 July 2021. Ms Menzies on the Respondent's behalf had conceded that she accepted these arrears were due. However the Tribunal was not prepared to grant an order for the increased sum of £3,248.72 as sought by the Applicant. No formal amendment had been requested and the Applicant had not produced an up to date rent statement evidencing the increased amount. The Tribunal noted that it would be open to the Applicant to lodge a further application for any remaining arrears, above what was sought in the application, if they wished to do so.
- 15 The Tribunal therefore determined to make an order for payment in the sum of £2,831.86. The decision of the Tribunal was unanimous.

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: Ruth O'Hare

Date: 19th October 2021