



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/21/1740

Re: Property at 67 Glengarriff Road, Bellshill, ML4 1LF (“the Property”)

Parties:

Mrs Elizabeth Doyle, 75 Cochrane Street, Bellshill, ML4 3EE (“the Applicant”)

Ms Paula Buckley, 67 Glengarriff Road, Bellshill, ML4 1LF (“the Respondent”)

Tribunal Members:

Petra Hennig-McFtridge (Legal Member) and Frances Wood (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order by the Respondent to the Applicant for the sum of £1,500 should be granted.

A Background

This is an application for payment of outstanding rent lodged with the Tribunal on 16 July 2021 in terms of S 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act) and Rule 111 of the Procedure Rules.

The amount of arrears stated in the application was £1,500. A rent schedule shows the arrears of rent at £1,585.76 on 12 July 2021.

The Applicant had lodged the following documents in evidence: a) the Private Residential Tenancy Agreement for the property commencing 15 October 2020 and b) the rent statement up to and including the date of 12 July 2021, redacted Bank of Scotland bank statements showing the incoming rental payments, text exchange between the parties from 5 January 2021 to 12 January 2021, 19 May 2021 to 25 May 2021, letter North Lanarkshire Council of 9.6.21 .

A Case Management Discussion (CMD) took place on 5 October 2021.

B The Case Management Discussion

The Applicant and the Respondent and Ms Young from Hamilton Citizens Advice Bureau representing the Respondent took part in the conference call. The Legal Member summarised the purpose of the CMD under Rule 17 and advised that a decision can be made in terms of Rule 18 if all relevant facts are agreed at the CMD.

Ms Doyle advised that the arrears had now increased to the sum of £1,843.04. Ms Young advised that the arrears were agreed and that there was no defence lodged to the application for rent arrears as it had been made.

The legal member explained that since the application was limited to £1,500 and no motion to amend the application had been lodged, the Applicant could either proceed on the basis of the current application, and the Tribunal would then grant a payment order for the amount stated in the original application or the Applicant could ask for a further CMD and could amend the sum sued for in terms of the Rules dealing with such amendments. The Applicant stated she would prefer to obtain an order today and to raise a fresh application for any further outstanding sums in due course.

There have been no representations of the Respondent in the case.

C Findings in Fact

Based on the documents submitted and the information provided at the CMD in the case the Tribunal is satisfied that the following facts have been evidenced:

1. The Applicant and the Respondent entered into a Private Residential Tenancy Agreement for the property commencing on 15 October 2020 (Clause 5)
2. Rent of £500 per 4 weeks was payable in advance (Cause 7).
3. The tenancy is ongoing.
4. The rent arrears accumulated as stated in the rent statement lodged with the application.
5. For the period up to and including 14 June 2021 the amount of the arrears is £1,500. This amount remains outstanding.

D Reasons for decision

1. The Tribunal considered that the material facts of the case were not disputed. In terms of Rule 17 of the Rules of Procedure:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

- (c) raising with parties any issues it requires to be addressed;
 - (d) discussing what witnesses, documents and other evidence will be required;
 - (e) discussing whether or not a hearing is required; and
 - (f) discussing an application to recall a decision.
- (4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

2. However, in terms of Rule 18 of the Rules of Procedure:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

- (a) may make a decision without a hearing if the First-tier Tribunal considers that—
 - (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and
 - (ii) to do so will not be contrary to the interests of the parties; and
 - (b) must make a decision without a hearing where the decision relates to—
 - (i) correcting; or
 - (ii) reviewing on a point of law,
- a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

3. The documents lodged are referred to for their terms and held to be incorporated herein. The Tribunal makes the decision on the basis of the documents lodged by the Applicant and the information given at CMD.

4. The Tribunal did not consider that there was any need for a hearing as the arrears are admitted and the application had not been opposed. In terms of Rule 18 of the Rules of Procedure the Tribunal is satisfied that it is not contrary to the interests of the parties to make a decision at the CMD and that the information available allows sufficient findings to determine the case.

5. The Tribunal is satisfied that the Respondent had entered into a Private Residential Tenancy Agreement with the Applicant for the property with a 4 weekly rental charge of £500 and had failed to make the necessary rental payments as shown in the arrears statements lodged agreed at the CMD. The Respondent had not put forward any reason why the rent should not be due. The Tribunal is satisfied that at the date of the CMD at least £1,500 rent arrears are outstanding.

6. The Applicant had only asked for an order for £1,500. Although the arrears may now exceed this amount, this is the amount the Respondent had due notice of and this is the amount which is undisputed. Any further arrears may be addressed by separate applications in future but are not subject to these proceedings. The Applicant had also omitted to seek payment of the additional shortfall of rent arising from the payment on 12 July 2021. The order is thus limited to the amount sought in the application.

7. The Applicant is entitled to a payment order for the sum of £1,500 for the rent arrears due up to and including 14 June 2021, which is the amount due on that date as per the rent statement lodged and agreed.

Decision:

The Tribunal makes an order for payment of the amount of £1,500 of arrears of rent by the Respondent to the Applicant reflecting the arrears arising from the non payment of rent on 28 December 2020, 17 May 2021 and 14 June 2021. The decision of the Tribunal is 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.

Petra Hennig-McFatridge

Chair

5 October 2021

Date