

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/21/2408

Re: Property at 7 Kilndale Terrace, Kirkcudbright, DG6 4BX (“the Property”)

Parties:

Mrs Sheila Agnes Shuttleworth, Mr Edwin Shuttleworth, 25 Alvingham Avenue, Castle Douglas, DG7 1JF (“the Applicants”)

Mr Kevin McRobert, Louise Collins, 7 Kilndale Terrace, Kirkcudbright, DG6 4BX (“the Respondents”)

Tribunal Members:

Steven Quither (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents are jointly and severally liable to the Applicants in the sum of THREE THOUSAND FIVE HUNDRED AND FIFTY POUNDS ONLY (£3550) STERLING.

1. BACKGROUND

This is an application for payment of rent arrears of £2450 arising out of a Private Residential Tenancy Agreement between the parties commencing 1 March 2020.

Following upon sundry procedure, a Case Management Discussion (“CMD”) was fixed for 17 January 2022.

2. CASE MANAGEMENT DISCUSSION

A CMD took place by teleconference on 22 January 2022, when the Applicants were represented by their Agent, Emma McGuinn, of Wallets Rural Property Services, Castle Douglas. The Respondents were neither present nor represented.

Confirmation was available of sheriff officer intimation of today’s CMD on the

Respondents by letter box delivery on 9 December 2021. Accordingly, notwithstanding the Respondents' absence, I considered the CMD could proceed. Clearly, however, since the Respondents were not present nor represented, no facts relating to the background in which the rent fell into arrears were capable of agreement.

Ms McGuinn confirmed that further arrears had accrued since commencement of these proceedings and accordingly the sum sought was now £3550, taking account of 2 further months rent due totalling £1100, to be added to the arrears shown in rent statement previously lodged up to 1 November 2021. I formally allowed amendment of the sum claimed to this new amount of £3550. She further advised that letters had been sent to the Respondents on various dates between 17 April 2020 and 1 November 2021 confirming arrears due at various dates and providing them with advice and information about outstanding matters and possible routes to resolution, which letters I considered sufficiently satisfied and fulfilled pre-action requirements. She further advised that neither she nor, so far as she was aware, the Applicants had received any response to same and accordingly she had no information to provide about any reasons behind the rent arrears which had accrued after an initial period without difficulty.

So far as she was aware, the First Respondent was a self-employed fence and dry stone dyke contractor, working in the agricultural sector and the Second Respondent was employed in the hospitality sector. She could only surmise that the impact of the coronavirus pandemic had perhaps adversely affected their incomes but did not know for sure.

Recent enquiries with neighbours had confirmed the Respondents had not been seen for a few days recently. However, they still had the keys to the Property and Ms McGuinn would have been made aware if these had been handed into her office, which they had not been.

In the circumstances she asked me to make the order for payment sought in the amended amount of £3550

Obviously, in view of the Respondents' failure to attend, there was no challenge to any of what was stated on behalf of the Applicants.

3. FINDINGS IN FACT

The Respondents are due and liable for arrears of rent up to 1 January 2022 in the sum of £3550 arising out of a Private Residential Tenancy between the parties commencing 1 March 2020, in respect of which the Respondents agreed to pay rent of £550 per month. In view of the terms of Section 1 of said Agreement, the liability is joint and several.

4. REASONS FOR DECISION

The Tribunal was prepared to accept the position as stated on behalf of the Applicants regarding accrual of rent arrears, there being no contrary position placed before it. Accordingly, the Respondents are due and liable jointly and severally for arrears of rent in the sum of £3550 up till 1 January 2022 and it is just to grant the order for payment in that amount.

5. DECISION

To grant the order for payment sought against the Respondents jointly and severally in the sum of £3550.

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.

S Quither

17 January 2022

Legal Member/Chair

Date