



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/21/2747

Re: Property at 38 1/L Knoxville Road, Kilbirnie, KA25 7EB (“the Property”)

Parties:

Mr Steven Cassidy, Mrs Angela Cassidy, 42 1/L Holmhead, Kilbirnie, KA25 6BS (“the Applicant”)

Ms Clare Caldwell, 38 1/L Knoxville Road, Kilbirnie, KA25 7EB (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member) and Elizabeth Williams (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in favour of the Applicants should be granted in the sum of £2,667.20.

- **Background**

1. This was the first case management discussion (CMD) in respect of an application by the Applicant dated 4th November 2021 for an order for payment in respect of arrears of rent against the Respondent who is the Tenant in the tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

- A copy of the Tenancy Agreement dated 4th September 2018
- Rent Statement to 4th November 2021 showing a sum due of £2749.40.

2. The **CMD discussion**

3. The CMD proceeded today by way of teleconference due to the continued requirement at the current time for social distancing. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. The Applicant did not attend but was represented by Miss Amy Rose Farrell.
4. The Respondent did not attend nor was she represented on the teleconference. The Respondent had been served notice of the CMD by sheriff officers on 3rd December 2021 and had been advised by letter of the change in the time of the CMD to 11.30am. The Respondent has been given fair notice and the Tribunal therefore felt it was appropriate and fair to continue in her absence.
5. Ms Farrell advised that she was seeking an order for payment for rent arrears as sought in the application and referred to the documents lodged in support of this claim.
6. The written documentation shows a tenancy had been created between the parties where the Respondent leased the Property from the Applicant from 4th September 2018.
7. The Rent due was £425 payable monthly in advance.
8. From the revised rent statement lodged arrears had built up from January 2019. Ms Farrell explained that the Respondent is in receipt of housing benefit and that is all she has to pay her rent. She confirmed the rent is paid directly to the letting agents. Ms Farrell further advised that the amount of housing benefit reduced around December 2019 which the agent thought was due to her no longer receiving the second bedroom rate. She confirmed that she believes the Respondent is a lady living on her own in the Property and as such she is receiving £307.40 which is the single bedroom rate. Ms Farrell explained that she has visited the Respondent personally, around September 2021, to discuss the rent arrears and offer support and was advised by the Respondent that she had no additional monies she could offer to pay towards the arrears and that she had been in touch with the council and put her name down for a council property. Ms Farrell confirmed that the Respondent has never worked and so this situation with the arrears is not a result of issues caused by Covid 19 but more due to the Respondent's circumstances. She confirmed that due to the fact 2 more rent payments have become due since the application was submitted, but 3 more payments of benefit have been received, the amount currently due is slightly less than that claimed in the application namely £2,667.20. Ms Farrell confirmed she was content for an order to be granted for that amount.

Findings in Fact

1. The parties entered into a lease of the Property which commenced on 4th September 2018.
2. The Rent due in terms of the lease is £425 monthly payable in advance
3. The tenant is still living in the property.
4. The Respondent has been continuously in arrears of payment of her rent since January 2019.
5. The rent outstanding is currently £2,667.20.
6. The Respondent is in receipt of benefits which do not meet her monthly rent due and so the shortfall means the rent arrears will continue to increase.

- **Reasons for Decision**

7. The parties entered into a lease where the Respondent has leased the property from the Applicant from 4th September 2018 and has agreed to pay £425 per month in rent.
8. Rent arrears have accrued since January 2019. Since around September 2020 the amount of benefit the Respondent has been receiving for her housing costs has reduced. The Respondent's benefits are paid directly to the letting agent for the rent. Currently the benefit is £307.40 which leaves a monthly shortfall of £117.60. The Respondent is unable to pay anything towards her arrears or the monthly shortfall and so the arrears will continue to increase.
9. The arrears due and owing today are £2,667.20. The Applicant is entitled to recover rent lawfully due.
10. The Respondent has made no appearance at the CMD and has made no written representations.
11. The Tribunal accepts the written evidence and verbal statements made by the Applicant's agent, who the Tribunal found clear and credible in her evidence that the rent outstanding and due by the Respondent amounts to £2667.20.
12. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

Decision

An Order for payment of the sum of £2,667.20 is granted.

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.

J. T

Legal Member/Chair:

Date: 14/01/2022