



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/21/2875

Re: Property at 37 Mainsacre Drive, Stonehouse, ML9 3QH (“the Property”)

Parties:

Mr Mark McNeil, 10 Wellbrae, Stonehouse, ML9 3ED (“the Applicant”)

Mr Scott McIntyre, 57 Hawfinch Road, Lesmahagow, Lanark, ML11 0JZ (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it should an order for payment for the sum of THREE THOUSAND TWO HUNDRED AND FIFTY POUNDS (£3,250.00) STERLING

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment for £3250 to the Applicant.
2. The application contained:-
 - a copy of the tenancy agreement,

- rent statement; and
 - bank statements
3. The Applicant's representative, Ms Hamilton appeared on behalf of the Applicant. There was no appearance by the Respondent. Notice of the case management discussion had been served on the Respondent by sheriff officers on 16 March 2022. As I was satisfied that there had been service of the application on the Respondent I was prepared to proceed with today's hearing in his absence.

Discussion

4. I noted the papers lodged in support of the application, including the tenancy agreement, rent account statement and messages. This application related to unpaid rent.
5. The Applicant's representative advised me that that the Respondent was aware of the rent arrears, and she referred to the messages between the parties and her and the respondent. The Applicant had made attempts to get the respondent to pay the rent arrears, but those attempts had been unsuccessful. The respondent has made offers to pay but had then failed to make the payments.
6. The last payment received from the respondent was for £200 on 23 September 2021 as set out in the most rent statement submitted by the Applicant. The current rent arrears are £3250. The respondent had moved out of the property on 2 December 2021.

Findings in Fact

7. The Tribunal found the following facts to be established:

- a. A tenancy agreement was entered into between the Applicant and the Respondent for the property and had existed between the parties
- b. The tenancy commenced on 1 March 2019.
- c. The respondent vacated the property on 2 December 2022.
- d. Clause 7 in the tenancy agreement provided that monthly rent was £550. Rent was due on the 1st of each month payable in advance.
- e. The rental statement showed amounts due each month, amounts received, and rent outstanding.
- f. The rental statement showed total rent arrears outstanding as of 1 November 2021 totalling £3250.00.
- g. It appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

Reasons for Decision

8. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
9. There was no response or appearance from the Respondent.
10. The tenancy agreement created obligations between the parties, which included paying rent. The Respondent had failed to pay his rent. There was submitted a rental statement showing the arrears due. The Applicant's representative submitted that the Respondent was in breach of the condition of the tenancy agreement regarding payment of rent. There was evidence in

support of the claim. There were also text messages lodged which appeared to show that the respondent is aware that he owes the rent.

11. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued.

Decision

12. I grant an order in favour of the Applicant for THREE THOUSAND TWO HUNDRED AND FIFTY POUNDS (£3,250.00) STERLING against the Respondent.

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.

Melanie Barbour

Legal Member/Chair

04 May 2022

Date