



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/21/2917

Re: Property at 34 Dawson Avenue, East Kilbride, Glasgow, G75 8LH (“the Property”)

Parties:

Mr Stuart Lamont, Mrs June Lamont, 68 Sutherland Way, East Kilbride, Glasgow, G74 3DL (“the Applicants”)

Mr Colin Neilson, Mr Richard Neilson, 55 Inverkip Drive, Shotts, ML7 4DF; G/2, 2 Croftfoot Crescent, Glasgow, G45 0BN (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Second Named Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants are entitled to an order for payment by the Respondents for £3125 (THREE THOUSAND AND TWENTY FIVE POUNDS)

Background

1. An application was received by the Housing and Property Chamber dated 16th November 2021. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. A CMD was held on 16th March 2022 at 2pm by teleconferencing. The Applicants were present and represented themselves. The First Named Respondent, Mr Colin Neilson, attended and represented himself. The Second Named Respondent, Mr Richard Neilson was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make

representations in advance of the hearing. Mr Colin Neilson considered that the Property was not in such a poor state that it required the full deposit to be apportioned to this and that some of the deposit should have been apportioned to the arrears. He did not dispute the arrears. Mr Neilson said that he had an email from when he contacted the tenancy deposit scheme. The Tribunal considered this an interest of justice point and continued to a further CMD to allow this information to be provided. The Tribunal issued a direction to this effect. This direction also asked for the Applicants to provide information regarding how this deposit claim was made in terms of the cost of the end of tenancy repairs.

The CMD

3. A CMD was held on 6th May 2022 at 10am by teleconferencing. The Applicants were present and represented themselves. The First Named Respondent, Mr Colin Neilson, attended and represented himself. The Second Named Respondent, Mr Richard Neilson was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
4. The Tribunal noted that the Applicants had supplied all of the information required in the direction. Mr Colin Neilson had not provided any of the information detailed in the direction. Mr Neilson said that he had not had time since the last CMD and only had an old phone. He confirmed to the Tribunal that he had not sought any advice to him on the matter or allow him to consider the documents sent. He had not looked at the information sent by the Applicants as it was difficult to do on his phone. He had not contacted the Housing and Property Chamber to get information sent by post. He had not phoned the deposit scheme to look into the decision that had been made. Mr Neilson noted that he had 6 children and did not have much time. The Tribunal considered that the matter had been continued for him to present evidence as to why he was not due all the money sought. Mr Neilson confirmed that the money was owed. This is on a joint and several basis as per the lease. However, he still disputed that the amount of the deposit should not have been fully apportioned to the end of tenancy costs. He had no evidence to support this point. He wished to proceed with the CMD and reach a decision without another date being fixed. The Tribunal considered that he has had sufficient time to seek advice or contact the tenancy deposit scheme. Mr Lamont noted that, as vouched in the information provided, the costs were in excess of £775 deposit. In fact the total cost had been £1120.95 which is £345.95 above the cost of the deposit.
5. Mrs Lamont noted that they had been willing to accept payments to pay off the amount due to them but that there had been no payments offered. They were now seeking an order to obtain the money legally due to her and her husband.
6. The Tribunal noted the views of both parties. The Tribunal did not consider it appropriate to challenge the decision of the tenancy deposit scheme. Especially as Mr Neilson has not provided any evidence upon which to challenge it and it is clear that the amount spent on the end of tenancy costs were above that covered by the deposit. This would account for wear and tear. Mr Neilson had

admitted that the arrears were due and provided no evidence to the contrary. This money is owed to the Applicants who have a right to enforce any payment order. Mr Neilson can obtain money advice regarding the repayment of money amounting to that within the Order.

7. The Tribunal was satisfied that the outstanding amount for £3125 was legally due to the Applicants by the Respondents and that it was appropriate to grant an order accordingly.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 19th May 2019.
9. The Respondents persistently failed to pay their rent charge of £685 per month. The rent payments are due to be paid on 8th day of each month.
10. There are now no outstanding Housing Benefit issues.
11. The Tribunal was satisfied that both Respondents had sufficient time to seek professional advice prior to this CMD and that a hearing was not necessary. Mr Colin Neilson failed to adhere to a direction for further information.
12. The arrears sought total £3125. This is legally due to the Applicants by the Respondents.

Decision

13. The Tribunal found that the Applicants were entitled to be granted an order for payment amounting to £3125 from the Respondents.

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.

G Miller

6th May 2022

Legal Member/Chair

Date