



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/21/2958

Re: Property at 69D Marischal Street, Peterhead, AB42 1PR (“the Property”)

Parties:

Mr Julius Zemulis, 3 St Peter Street, Peterhead, AB42 1RR (“the Applicant”)

Ms Audrone Mazintiene, Mr Jevgenij Siesko, previously residing at a 1 Wallace Street, Peterhead and whose present whereabouts are unknown (“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 TWO THOUSAND FIVE HUNDRED AND TWENTY NINE POUNDS (£2,529.00) 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 of the sum of £2603.53 to the Applicant in relation to rent arrears and costs for cleaning the property.
2. The application contained:-

- a copy of the tenancy agreement,
 - rental statement, and
 - invoices for cleaning
 - photographs of the property showing the interior when the tenants left
3. The Applicant appeared. There was no appearance by either Respondent. Notice of the Hearing had been served on the Respondents by service by advertisement. As I was satisfied that there had been service by advertisement I was therefore prepared to proceed with today's hearing.

Discussion

4. The Applicant referred me to the papers which had been lodged in support of the application, including the tenancy agreement, rent account statement and invoice for cleaning. This application related to unpaid rent due in terms of that agreement and cleaning costs after the tenants had left the property.
5. The applicant advised he had had difficulties getting rental payments more recently. He had gone to the property on 20 November 2021 and found the second respondent to be in the process of moving out. The first respondent had also appeared to have moved out. He advised that he had not received any notice that they were leaving and therefore the 28 day notice period ended on 18 December, and he sought an order for rent due until that date.
6. He had submitted photographs of the inside of the property, showing it in a dirty and messy condition, and also, an invoice for cleaning the property.
7. He advised that he had no contact with the tenants since they had moved out. He advised that the sums due were still outstanding.

Findings in Fact

8. The Tribunal found the following facts to be established:
- a. A tenancy agreement was entered into between the Applicant and the Respondents for the property and had existed between the parties.
 - b. Clause 8 in the tenancy agreement provided that monthly rent was £425, and the rent payment date was 1st of of each month. Clause 8 of the tenancy agreement provided that monthly rent was due in advance.
 - c. That the rental statement showed amounts due each month, amounts received, and rent outstanding.
 - d. That the rental statement showed total rent arrears outstanding to 1 November 2021 totalling £2,165.
 - e. Both applicants had moved out of the property by 20 November 2021.
 - f. A further sum of £261 was due in relation to rent from 1 December until 18 December 2021 to account for the 28 notice period.
 - g. The tenancy at condition 24 provided that the tenant must leave the property in clean and tidy and in good decorative order.
 - h. There was an invoice for £101 for cleaning the property.
 - i. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

Reasons for Decision

9. 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.

10. There was no response or appearance from the Respondents.
11. The tenancy agreement created obligations between the parties, which included paying rent and to keep the property clean and tidy. The Respondents has failed to do so. There was submitted a rental statement showing the arrears due and an invoice for the cleaning carried out to the property after the Respondents had moved out. The Applicant submitted that the Respondents were in breach of certain conditions of the tenancy agreement and he had submitted evidence in support of his claim.
12. 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 for.

Decision

13. I grant an order in favour of the Applicant for TWO THOUSAND FIVE HUNDRED AND TWENTY NINE POUNDS (£2,529.00) STERLING against 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.

Melanie Barbour

Legal Member/Chair

23 March 2022
Date