



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/21/3073

Re: Property at 8 Mossywood Court, Cumbernauld, G68 9DR (“the Property”)

Parties:

Simple Homes Scotland Ltd, 12 Harlow March, Balerno, EH14 7BJ (“the Applicant”)

Mr Graeme Donachie, Mrs Jill Donachie, 5 Northburn Street, Plains, Airdrie, ML6 7JP (“the Respondent”)

Tribunal Members:

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £2,600 be made in favour of the Applicant.

Background

- This was the first Case Management Discussion to consider an application dated 10th December 2021 made by the Applicant for payment of rent arrears from the Respondent in relation to a lease entered between Mr Matt Morrell the Director for the Applicant and the Respondents.
- The Applicant was the owner of the Property at the time the Property was rented to the Respondents. The Property has been sold recently after an eviction order was granted and the Respondents left the Property around the end of July 2021.
- The Applicant has lodged with the application a copy of the tenancy agreement which commenced on 26th September 2019 along with a copy of the rent statement showing a sum due of £2,761.69 which is the sum now claimed by the Applicant.

The CMD on 27th April 2022

1. The CMD proceeded today at 2pm by way of teleconferencing and Morrell appeared on behalf of the Applicant and both Respondents attended. Neither party was represented.
2. Mr Morell advised that he was a Director of the Applicant company and the Property had been owned by the Applicant and all rent paid to the Applicant during the lease of the Property to the Respondents. He advised that he was seeking an order for payment in respect of rent arrears from the Respondents as per the statement lodged with the papers namely for the sum of £2761.69. He confirmed the rent due in terms of the lease was £700 per calendar month and the Statement shows that no payment of rent was made for the months of January and February 2021, that only £300 was paid for rent due in March, April and May 2021, and then no payment was made on 26th June nor any on 26th July. He advised that the rent due in total for that period was £3461.69 which included a pro rata amount due to the end of the tenancy which he advised was 2nd August when the order for eviction took effect.
3. Mr Morell confirmed that as per the statement the deposit of £700 was then deducted from the amount due leaving a sum of £2761.69.
4. Mr and Mrs Donachie then put forward their position which was that they agreed they had tenanted the Property and agreed that there was rent due and owing but denied the tenancy had ended on 2nd August instead they stated that they had handed back the keys to the letting agent K Property around 28th/29th July. Mr Donachie advised they had told the letting agent they were struggling financially around January 2021 and he advised the letting agent had his phone number but they had not tried to call or discuss the arrears. He advised that because of the fact they had to move because of the eviction action and Mr Morrell's actions in wishing to sell the property, the stress of this has had a detrimental effect on his health and Mr Donachie has not been able to work and is concerned he will not work again. He advised that he is taking legal advice about his financial position generally.
5. Mrs Donachie also confirmed the effect it has had on their family and emphasised that if they could pay they would have. Both respondents however denied owing the full amount but admitted that they owed the Applicant £2,600 in rent to 25th July after the deposit was taken into account. They did raise a question about whether the deposit had been secured in a scheme but realised that they are out of time to pursue this matter if it has not been lodged appropriately.
6. Mr Morell on behalf of the applicant advised that the letting agent had given him the statement showing the rent due up to 2nd August but after some discussion he confirmed he was prepared to accept that £2,600 is the sum due and owing and as the Respondents have admitted to owing this sum no hearing on the facts is necessary.
7. The legal member checked that the Respondents were aware that in admitting this sum is due that an order for payment would likely be granted and that they did not want to take legal advice first? The Respondents confirmed they did appreciate this is what their admission meant and they

did not wish to take legal advice on this. They also advised that financially they are unable to make any offer to pay at this time.

Findings in Fact

1. The parties entered into a lease of the Property which commenced on 26th September 2019.
2. The Rent due in terms of the lease is £700 per calendar month payable in advance
3. The Applicant is the owner of the Property and Mr Morrell is the director of the Applicant and acted as landlord.
4. The Respondent is the tenant in the lease.
5. An order for eviction was granted on 2nd July 2021.
6. The Respondents moved out of the Property on or around 29th July 2021 and returned the keys to the Landlord's agent.
7. The Deposit of £700 has been applied to reduce the arrears of rent.
8. The rent outstanding and agreed at the end of the tenancy is £2,600.

• Reasons for Decision

9. The parties have entered into a lease where the Respondent has leased the property from the Applicant and have agreed to pay £700 per month in rent.
10. The Respondents have failed to pay the full rent due. The landlord pursued an application for eviction and this was granted on 2nd July 2021. The Respondents then left the Property and returned the keys on or around 29th July 2021. This was confirmed orally at the CMD by Mr and Mrs Donachie who advised they did not want sheriff officers arriving to evict them and their young family.
11. Mr Morell on behalf of the applicant has accepted this and agreed to accept the sum due is up to 25th July leaving a sum due and not paid of £2,600.
12. The Tribunal accepts the written evidence and verbal statements made by both parties that the rent due and not paid is £2600. Mr Morrell explained that the Applicant is his company which owned the Property and the rent was paid to and collected by the company, so an order made in favour of the Applicant is appropriate.
13. There being no application for time to pay the Tribunal makes an order for payment of the sum agreed of £2600.

• Decision

An order for the sum of £2,600 is granted in favour of the Applicant from 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.



Legal Member/Chair

27th April 2022
Date