



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/21/3137

Re: Property at 75 Primrose Crescent, Perth, PH1 2QG (“the Property”)

Parties:

Miss Jacqueline Jeffrey, 52 Perth Road, Stanley, Perth, PH1 4PB (“the Applicant”)

Mr Cameron Stewart, Mr John Dunbar, Ms Fiona Jackson, Miss Kirsten Dunbar, Mr Christopher McMurray, Mrs Elizabeth McMurray, Treetops, Beechgrove, Balbeggie, Perth, PH2 6FA; 20 The Rookery, Perth, PH1 5FX; Flat C, 2 McKenzie Court, Fieldfield Road, Perth, PH1 2TE; 31H South William Street, Perth, PH2 8LS; 1 Preta Street, Huntingtower, Perth, PH1 3YB; 1 Preta Street, Huntingtower, Perth, PH1 3YB (“the Respondent”)

Tribunal Member:

Melanie Barbour (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it should make an order for payment for the sum of THREE THOUSAND ONE HUNDRED AND THIRTY FIVE POUNDS AND FORTY PENCE (£3,135.40) 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 in relation to unpaid rent.

2. The application contained:-
 - a copy of the tenancy agreement
 - rent statement and
 - notes on correspondence on the arrears between the landlord and tenants
3. An initial case management discussion had been held by telephone conference call on 27 April 2022 reference is made to the note of that discussion. The matter was continued on that date in order for Cameron Stewart to seek legal advice on the implications of an order for payment being granted.
4. All parties attended today's case management discussion, except for Cameron Stewart. I was satisfied that his representative had received notice of this discussion and I was prepared to proceed in their absence.

Discussion

5. The Applicant advised that she was still seeking an order for payment in relation to the unpaid rent. The payment order sought was for £3,135.40.
6. Cameron Stewart's representative advised previously advised that Cameron Stewart was not disputing that rent was owed. Cameron Stewart's representative advised that they accepted it was a valid lease.
7. Mr and Mrs McMurray advised that they were Kirsten Dunbar's grandparents, they had submitted a handwritten letter advising that they had limited ability to repay the sums owed. They were not disputing the amount owed. They asked to make any repayments by instalments. They had not completed a time to pay application.
8. Kirsten Dunbar, advised that she was not disputing that rent arrears were due by her in terms of the lease. She said that she was happy to pay the half that she owed. She asked that she be allowed to enter into a repayment arrangement.
9. The remaining respondents confirmed that they did not dispute that the rent was owed and were not opposing the application.

Findings in fact

10. I made the following findings in fact:-

- a. A tenancy agreement was entered into between the landlord Jacqueline Jeffrey and the Respondents Cameron Stewart and Kirsten Dunbar for the property and had existed between the parties
- b. Clause 38 provides for guarantors and states that the guarantor guarantees all payments of rent and other payments due to the landlord which the tenant is required to pay. There were four guarantors to this lease, Elizabeth McMurray, Christopher McMurray, John Dunbar and Fiona Jackson.
- c. The tenancy commenced on 18 January 2020
- d. Clause 8 in the tenancy agreement provided that monthly rent was £375 Rent was due on the 1st of each month.
- e. The rental statement showed amounts due each month, amounts received, and rent outstanding. The rental statement showed that there were rent arrears outstanding on 20 August 2021 of £3,372.38.
- f. As at 6 July 2022 the arrears were still outstanding.

Reasons for Decision

11. 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.

12. The tenancy agreement created obligations between the parties, which included paying rent. The Respondents had failed to pay some of the rent. There was submitted a rental statement showing the arrears due. The Applicant submitted that the Respondents were in breach of the condition of the tenancy agreement regarding

payment of rent. There was evidence in support of the claim. None of the respondents disputed that the arrears were due and owing.

13. 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.

14. I would observe that both respondents advised that they were prepared to pay their share of what was owing. Ms Dunbar asked if a repayment arrangement could be entered into. Mrs McMurray also asked to pay reasonable instalments. There was no time to pay application before me so I have not ordered an instalment decree, I note that the applicant appeared to be agreeable to a repayment plan subject to it being adhered to.

Decision

15. I grant an order in favour of the Applicant for THREE THOUSAND ONE HUNDRED AND THIRTY FIVE POUNDS AND FORTY PENCE (£3,135.40) 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.

M Barbour

06/07/2022

Legal Member/Chair

Date

