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/22/0058

Re: Property at 32 Walker Gardens, Aberdeen, AB11 8AB ("the Property")

Parties:

Sanctuary Homes (Scotland) Limited, 7 Freeland Drive, Glasgow, G53 6PG ("the Applicant")

Mr Jamie McCombie, 32 Walker Gardens, Aberdeen, AB11 8AB ("the Respondent")

Tribunal Members:

Ms H Forbes (Legal Member) and Mr G Darroch (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment should be granted in favour of the Applicant in the sum of £13,795.13.

Background

1. This is an application received in the period between 10th January and 8th April 2022 and made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended ('the Rules'). The Applicant is the landlord of the Property, and the Respondent is the tenant, in terms of a tenancy agreement that commenced on 27th November 2020 at an agreed rent per month of £721.

2. The Applicant's representative lodged a copy of the tenancy agreement, and a rent statement. The Applicant was seeking an order for payment in respect of unpaid rent in the sum of £9469.13.

3. Service of the application and notification of a Case Management Discussion was made upon the Respondent by Sheriff Officers on 31st May 2022.

4. By email dated 28th June 2022, the Applicant's representative made an application to increase the sum sought to £13,795.13.

The Case Management Discussion

5. A Case Management Discussion took place by telephone conference on 14th July 2022. Mrs Susan Alexander and Mr John Campbell were in attendance on behalf of the Applicant, who was represented by Mr Blair MacDonald, Solicitor. The Respondent was not in attendance.

6. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondent had been given reasonable notice of the time and date of the Hearing, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 17(2) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondent upon the representations of the Applicant and the material before the Tribunal.

7. Mr MacDonald moved the Tribunal to grant the amended sum sought. The Applicant has made several attempts to engage the Respondent with telephone calls, virtual messages, emails and home visits, to no avail.

8. Mrs Alexander said the Respondent has been given suitable advice, but he has paid no rent. He also said he would be terminating the tenancy but has not done so.

Findings in Fact and Law

9.
  i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 27th November 2020 at an agreed rent per month of £721.

  ii. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.

  iii. The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

10. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

11. An order for payment is granted in favour of the Applicant in the sum of £13,795.13.

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.
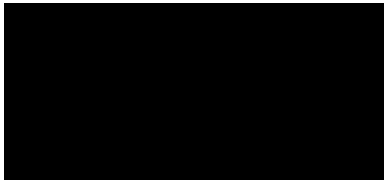
14 July 2022

————————————————————   ——————————————————————

Legal Member/Chair   **Date**