



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/22/0260

Re: Property at 7 Heathland Park, Kinellar, Aberdeenshire, AB21 0SG (“the Property”)

Parties:

Craigmar Properties/ Mr Kenneth Marshall/ Mr Charles Marshall, Mr Charles Marshall, Chapel Works, Bucksburn, Aberdeen, AB21 9TL (“the Applicant”)

Mrs Karen Faulds, 7 Heathland Park, Kinellar, Aberdeenshire, AB21 0SG (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it should grant an order for payment for the sum of £13,700.00.

1. Background
2. An application had been received under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking a payment order for rent arrears.

3. The application contained:-

- a. a copy of the tenancy agreement,
- b. a copy of the notice to leave with evidence of service
- c. a copy section 11 Notice with evidence of service
- d. a copy of the rent statement
- e. messages between the parties.

4. The Applicants' representative Charles Marshall from Craigmar Properties, appeared on behalf of the Applicant. There was no appearance by the Respondent.

5. Notice of the Hearing and the application had been served on the Respondent by sheriff officers on 12 April 2022. As the tribunal was satisfied that the Respondent had been served with notice of today's hearing we were therefore prepared to proceed with today's hearing in her absence.

6. Discussion

7. The Applicant's representative advised us that the Respondent had now left the property on around 12 April 2022. They were no longer seeking an order for eviction and were only now seeking an order for payment of the rent arrears.

8. He advised that the current rent arrears were £15800. The last payment received from the Respondent was in April 2021. There had been no further payments from her since that date and there had been no communications between the Respondent and the Applicant since making the application.

9. He sought a payment order of £13,700 the amount set out in the application.

10. Findings in Fact

11. The Tribunal found the following facts established:-

- a) There existed a private residential tenancy between the Applicant and the Respondent.
- b) The tenancy commenced on 1 September 2020.
- c) The tenancy was for the property 7 Heathland Park, Kinellar, Aberdeen.
- d) The tenant is Karen Faulds.
- e) The landlord is Craigmar Properties.
- f) Clause 8 of the Tenancy Agreement provides that the rent for the property is £1050 per calendar month thereafter. It is payable in advance and due on the 1st of each month.
- g) There was a rent statement showing rent owing, paid and due. The rent arrears as at 1 January 2022 appeared to be £13,7000.00.
- h) The last payment made was 6 April 2021.
- i) It appeared that the rent arrears were still outstanding and now totalled £15,800.00.
- j) The respondent vacated the property on around 12 April 2022.
- k) It appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

12. Reasons for Decision

13. 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 we are content that we have jurisdiction to deal with this case.

14. There was no response or appearance from the Respondent.

15. The tenancy agreement created obligations between the parties, which included paying rent. The Respondent had failed to pay her rent. There was submitted a rental statement showing the arrears due. The Applicant's representative submitted that the Respondent was in breach of the condition of the tenancy agreement regarding payment of rent. There was evidence in support of the claim. There were also messages lodged which showed that the respondent is aware that she owed the rent.

16. On the basis of the evidence submitted and having regard to all papers submitted including the application, we consider that we should make an order for the sum sued.

17. Decision

18. We grant an order in favour of the Applicant for THIRTEEN THOUSAND SEVEN HUNDRED POUNDS (£13,700.00) STERLING against 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.

M Barbour

26/05/2022

Legal Member/Chair

Date