



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/1000

Re: Property at 39 Kingston Avenue, Tannochside, Uddingston, G71 6TA (“the Property”)

Parties:

Miss Denise Gower, 35 Harvey Way, Bellshill, North Lanarkshire, ML4 1TF (“the Applicant”)

Mr John Elliot, Miss Megan Louise Walker, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of £2016.77 be granted in respect of rent arrears and damage to the Property.

Background

1. An application was made dated 5 April 2022 in terms of Rule 111 of the Chamber_Rules for a payment order for rent arrears and property damage. Along with the application form, the Applicant lodged the following documents:
 - Copy tenancy agreement
 - Copy bank statements
 - Copy Inventory at check in and check out
 - Email correspondence between parties
 - Invoices/receipts in respect of cleaning and making repairs to the Property
2. A request for service by advertisement was also submitted dated 5 April 2022.

3. The Tribunal wrote to the Applicant on 22 April 2022 in respect of whether the bank statements should be redacted and also advising that service by advertisement could not be granted unless appropriate steps had been taken to trace the Respondents. A response was requested by 6 May 2022.
4. The Applicant replied with redacted bank statements and a request for an extension of time to allow tracing agents to attempt to trace the Respondents. An extension was granted by the Tribunal until 23 May 2022.
5. The Applicant emailed the Tribunal on 11 May 2022 with a trace report confirming the Respondents address details had not been found.
6. The application was accepted and service was made by website advertisement.
7. In the case management discussion notification letter parties were advised that: *"The tribunal may do anything at a case management discussion which it may do at a hearing, including making or refusing a payment order. If you do not take part in the case management discussion, this will not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair."*
8. Written representations were due to be lodged by the Respondents by 26 July 2022. No written representations were received.

Previous Case Management Discussion

9. A previous case management discussion took place by teleconference on the 12 August 2022. There was no attendance by either the Applicant or the Respondents. There was no communication by any party as to any reason for non-attendance. There was no-one to speak to the written application and evidence before the Tribunal. Accordingly, the Tribunal refused the Application.

Request for Recall

10. The Applicant emailed the Tribunal on 26 August 2022 in the following terms: *"I would like to apply for a recall of this decision as I did not participate in the proceedings. I apologise for missing this, the invitation must have gone into my junk. I will ensure to check this from now on. I feel it is in the best interest of the court to consider this decision as the tenants should be held accountable for what they did in the hope that they don't do this again in future to other landlords and properties."*

11. The recall application could not be intimated to the Respondents as their current whereabouts are unknown and service of the application took place by way of website advertisement.
12. The Tribunal recalled its decision of 12 August 2022 and, in doing so, took into account the terms of Rule 30 of the Chamber Rules and the overriding objective in Rule 2 of the Chamber Rules to deal with the proceedings justly.

13. A new case management discussion was assigned for 18 November 2022 and this was advertised on the Tribunal's website.

The Case Management Discussion

14. The case management discussion took place today by teleconference. The Applicant attended but there was no appearance by or on behalf of the Respondents. The Applicant made oral submissions in relation to the payment order sought and the amount claimed. She provided further oral evidence in relation to the rent arrears figure claimed and the damage to the Property. She had first known of a problem at the Property at around Christmas 2021 when she was visiting her mum. She ordinarily resides in France. After many attempts to get hold of the Respondents she had a telephone conversation with the second Respondent who advised she was removing from the Property but needed a few weeks to remove her belongings. Notice was taken as being given on 4 January 2022 with a tenancy termination date of 1 February 2022.
15. There were a number of costs incurred which the Applicant was choosing not to claim for such as painting the whole Property due to the effects of smoking and replacement of the bedroom and bathroom flooring.
16. Discussion took place regarding the amount of rent arrears sought for the period 12 January to 1 February 2022 and the Applicant agreed that a figure of £650 x 12 divided by 365 x 21 would be an appropriate figure which resulted in a figure of £448.77 for that period of arrears.

Findings in Fact

17. The Tribunal made the following finding in fact:
- The Parties entered into a private residential tenancy agreement from 12 May 2019.
 - In terms of the tenancy agreement, rent was due to be paid at a rate of £650 per calendar month.
 - The tenancy ended 1 February 2022 with the second Respondent giving verbal notice to leave on 4 January 2022.
 - Rent was not paid for the period from 12 December 2021 until 1 February 2022. This amounts to a sum of £650 for the period 12 December 2021-11 January 2022 and then £448.77 for the period from 12 January 2022- 1 February 2022 ($£650 \times 12 / 365 \times 21$).
 - The tenancy agreement provided that the tenant will be liable for the cost of repairs where the need for them is attributable to his or her fault or negligence, that of any person residing with him or her, or any guest of his or hers.
 - The Property was left in an extremely poor state of repair. Carpets and flooring required replaced throughout, the Property required a deep clean, a Property Clearance Company required to be employed to clear the Property of debris and items left behind. The following costs were incurred:
 - Replacement of hall and stair carpet at £360
 - Replacement of kitchen flooring at £240

Replacement of living room flooring at £550

Deep clean at a cost of £168

Property clearance services at £250

- The Applicant had received payment of the deposit of £650 on 3 March 2022 so this fell to be deducted from the total figure.

Reasons for Decision

In reaching its decision, the Tribunal took into account the documents and evidence previously lodged and the oral submissions of the Applicant today. There was nothing challenging the evidence before the Tribunal. In all the circumstances, the amount of payment order sought by the Applicant was reasonable.

Decision

The Tribunal grants a payment order in favour of the Applicant against the Respondents in respect of rent arrears and damage to the Property in the sum of £2016.77

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.

A Mathie

18 November 2022

Legal Member/Chair

Date

Anne Mathie