



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/22/1133

Re 42A Corsewall Street, Coatbridge, ML5 1PY ("the Property")

Parties:

George Clark residing at 7 Willowdale Crescent, Garrowhill, Glasgow, G69 7NL ("the Applicant")

Brendan Smith residing at 6 St James Way, Coatbridge, ML5 5BL ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

Decision

The Tribunal determined that an order for payment would be issued requiring the Respondent to pay the Applicant the sum of £292.47.

Background

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent in the sum of £642.47, being the rent outstanding as at the date the tenant vacated the property 19th May 2022. The Applicant confirmed by email dated 7th August 2022 that his letting agent had secured the deposit of £350 and the sum due by the Respondent should be reduced by that amount. The Applicant confirmed by email dated 13th September 2022 that the sum sought is £292.47.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicants were:

2.1 A copy of the Tenancy Agreement.

2.2 Rent Statement

2.3 A letter by Anne Clark to the Tribunal confirming that she was happy for the application to proceed in her husband's name alone.

3.First Case Management Discussion.

3.1 This case called for a conference call Case Management Discussion (CMD) at 14.00 on 6th January 2023.

The Applicant and the Respondent attended.

The Respondent advised that he was a vulnerable adult as he was in recovery and his memory was poor. However, he was happy to proceed with the CMD but he had been unable to obtain advice on the application and had not previously lodged written representations due to the holidays.

3.2 The parties confirmed the following facts, which were accepted by the Tribunal:

3.2.1The Respondent had been the Tenant of the Property in terms of the Private Residential Tenancy between the parties dated 24th August 2018.

3.2.2The Respondent vacated the Property on 19th May 2022.

3.2.3The rent due in terms of the tenancy is £350 per month, payable monthly in advance.

3.3 The Tribunal had a copy of the Title sheet of the Property, The Tribunal found that the Applicant is a joint proprietor (along with Anne Clark) of the Property 42A Corsewall Street, Coatbridge, ML5 1PY being the subjects registered in the Land Register of Scotland under Title Number LAN177461('the Property').

3.4 The Applicant advised the Tribunal that the current arrears amounted to £292.47 and referred the Tribunal to the rent statement that had been produced.

3.5 The Respondent agreed that he had not paid two months rent at the end of his tenancy. However, he was unable to confirm if the correct figure outstanding was £292.47 as he had been unable to confirm this figure with his support worker. In any event he did not believe that the sum should be paid due to the condition of the property during the tenancy. In particular, he explained that during the tenancy he had intimated to the letting agent the following defects:

- (i) Problems with the water supply in the bathroom
- (ii) The toilet flooded and was not repaired
- (iii) There was a make shift electrical box above the toilet which was loose.
- (iv) No heating.

He confirmed that he would provide the Tribunal with further details of these defects and evidence that he had reported them to the letting agent. He confirmed that he had not lodged a repairing standard application with the Tribunal.

3.6 The Applicant stated that the assertions made by the Respondent were untrue. There had been many issues with the tenancy including the fact that the Applicant had

not provided access. The letting agents will be able to provide details which he will obtain and provide to the Tribunal.

4. Written Representations

4.1 The Applicant sent the Tribunal an email dated 10th February 2023 which rebutted the Respondent's claims and provided copies of emails from the letting agent to the Respondent requesting access and attempting to deal with faults that had been reported. He also provided photographs showing the condition of the Property at the end of the tenancy.

4.2 The Respondent did not provide any written representations.

5. Second Case Management Discussion.

5.1 This case called for a conference call Case Management Discussion (CMD) at 11.30 on 10th March 2023.

5.2 The Applicant and the Respondent attended.

5.3 Mr Smith explained that he had asked the letting agent to provide copies of emails but they had not replied to his emails. He acknowledged that he had not provided any written representations or supporting evidence to the Tribunal.

5.4 Mr Clark referred the Tribunal to his email of 10th February 2023.

6. Decision

6.1. Requirements of Section 111 of the Procedure Rules.

6.1.1 In connection with the requirements of section 111 the Tribunal determined that the application correctly detailed the requirements of section 111(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name and address of the Applicant.
- (ii) the name and address of the Respondent.
- (iii) the reason for making the application.

6.1.2 The Tribunal also confirmed that the application had been accompanied by the documents specified in **Section 111(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statement of rent arrears.

6.2 The Tribunal had given Mr Smith ample opportunity to provide written representations and supporting evidence but he had failed to provide them.

6.3 The Tribunal accepted as correct the evidence of the rent statement produced which showed the outstanding rent to be £292.47.

6.4 The Tribunal determined that the outstanding rent due by the Respondent amounted to £292.47 and accordingly they issued an Order for Payment in this sum.

7. 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.

J Taylor

Legal Member |

10th March 2023