



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/22/1407

Re: Property at 21 Gorely Place, Motherwell, ML1 2FJ (“the Property”)

Parties:

Clyde Valley Property Services, 50 Scott Street, Motherwell, ML1 1PN (“the Applicant”)

Mr John McPhee, Unknown, Unknown (“the Respondent”)

Tribunal Members:

Jan Todd (Legal 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 of the sum of £4,078.50 be granted in favour of the Applicant from the Respondent.

- **Background**

1. This was the first case management discussion (CMD) in respect of an application by the Applicant dated 12th May 2022 for an order for payment of arrears of rent from the Respondent who was the Tenant in a Tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

- A copy of a Tenancy Agreement dated 24th October 2022 between the Applicant as Landlord and the Respondent who was the Tenant.
- A Statement of rent to 28th February 2021 and a statement of rent to 12th May 2022
- Copy correspondence between the parties regarding the rent account

- Final statement of Account showing a balance due of £9,915.06.
- Copy lease agreement between Clyde Valley Housing Association and the Applicant
- The Applicant subsequently lodged in response to a request for further information:-
 - A rent statement to 1st January 2021 and a payment order from the First Tier Tribunal for Scotland dated 12th May 2021 for that sum.
 - Copy decision from Case no FTS/HPC/CV/21/0085
 - A Further statement showing the final rent amount due from 1st February 2021 to 9th December 2021 of £4,295.16, the return of the deposit of £475 on 8th February 2022 and the addition of chargeable costs of £617.87 debited on 9th May 2022.
 - Copy invoices for removal and disposal of items left in the Property
 - Deep clean of the property
 - Cost of eviction services by sheriff officers
- 2. The case management discussion (CMD) proceeded today by way of teleconference.
- 3. Service was validly affected on the Respondent by Service by advertisement as the Applicant had tried and failed to trace the Respondent. The Advertisement was made on the Tribunal's website between 1st August 2022 and 14th September 2022 and the Tribunal has had sight of the Certificate of Service of Advertisement.

- **The Case Management Discussion**

1. The CMD took place by teleconferencing and the Legal Member waited until 14.10 to see if the Respondent was going to join the call. The Respondent did not join and was not represented at the CMD. The Respondent has not lodged any written submissions for the Tribunal to consider.
2. The legal member made introductions and explained the purpose and order of proceedings also advising that the Tribunal could make a decision after a CMD which it could after a hearing if satisfied it was appropriate to do so.
3. Ms Carol Sanderson attended for the Applicants on the call. The legal member considered it appropriate to continue with the CMD given that intimation had been given to the Respondent and he has not responded in writing or requested any postponement of today's CMD.
4. Ms Sanderson confirmed the Applicant was seeking a payment order for rent arrears and other expenses relating to the Property. She advised that the Applicant had already attended a tribunal to seek eviction and a first order for rent arrears in which they were successful. She advised she along with other officers of the Applicant and sheriff officers attended the Property on 8th December 2021 to carry out the eviction but discovered the

tenant had already left. She confirmed that thereafter the full deposit of £475 was successfully claimed and put towards the rent arrears.

5. Ms Sanderson confirmed the rent arrears due since the last order was granted are £4,295.16 reduced to £3,820.16 after the deposit was deducted. In addition she confirmed as per her application and Appendix 3 of her productions that there were costs involved in moving a lot of furniture and belongings left by the tenant in the Property and the Property required a deep clean. The cost of these services were £139.37 for the removal of items left by the tenant and £118.97 for the cost of a deep clean. The Applicant has lodged invoice in support of both costs.
6. Ms Sanderson was also claiming the cost of hiring sheriff officers to carry out the enforcement of the eviction order but was not clear on what grounds she was claiming this. The legal member explained that in terms of Rule 40 of the Tribunal's rules expenses were not usually granted in an application unless the Respondent's behaviour was unreasonable in the conduct of a case and these were not expenses of this application. There is a clause in the tenancy relating to expenses caused by late payment of rent but does not mention sheriff officers fees relating to an eviction action and so Ms Sanderson confirmed she would be content if that sum was not granted. The legal member advised that taking account of the rent arrears, cost of removal of items and the cost of cleaning the amount appeared to now be £4078.50 and Ms Sanderson agreed and confirmed she was content to seek that amount.

Findings in Fact

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 24th October 2018.
2. The Rent due in terms of the lease is £475 per calendar month payable in advance
3. The tenant had left the property by 8th December 2021 when the Applicant's letting manager and sheriff officers attended to carry out the eviction.
4. The rent outstanding from 1st February 2021 to 9th December 2021 was £4,295.16.
5. A previous order for payment of rent arrears had been granted to the Applicant on 12th May 2021 for £5,477.03
6. The Deposit of £475 was returned to the Applicant and reduced the rent due to £3,820.16
7. Costs of cleaning the Property were incurred amounting to £118.97
8. Various items and furniture had to be removed from the Property at a cost of £139.37.

• Reasons for Decision

9. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £475 per month in rent.
10. The Respondent has failed to pay the full rent due. The Applicant raised a previous application for eviction and rent arrears and both were granted. The Respondent left the Property on or before 8th December 2021 when the tenancy ended. The rent incurred since the first order was granted and after

deduction of the deposit amounts to £3,820.16. The Tribunal accepted the submissions and receipts in support of those submissions from Ms Sanderson that showed the applicant had incurred further costs in clearing the property of items of clothing furniture and other items belonging to the tenant and that the Property required a professional clean. The Tribunal noted that Ms Sanderson was not clear on what basis she was claiming sheriff officer's costs and that she was content to withdraw that part of the claim.

11. The Respondent was served notice of this application by service by advertisement and has not made any written representations or attended this CMD.
12. The Tribunal accepts the written evidence and verbal statements made by the Applicant's representative who the Tribunal found clear and credible in her evidence of the rent outstanding and costs incurred from the failure of the tenant to clean or remove all possessions from the Property. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum of £4,078.50.

- **Decision**

An order for payment of the sum of £4,078.50 is granted.

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. A. Todd

Legal Member/Chair

Date: 14th September 2022