



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/22/1969

Re: Property at Corner Cottage, Little Cutstraw Farm, Stewarton, KA3 5JE (“the Property”)

Parties:

Cabin Developments Ltd, The Farmhouse, Little Cutstraw Farm, Stewarton, East Ayrshire, KA3 5JE (“the Applicant”)

Ms Julie Borrett, UNKNOWN, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment from the Respondent for £1715 (ONE THOUSAND SEVEN HUNDRED AND FIFTEEN POUNDS).

Background

1. An application was received by the Housing and Property Chamber dated 20th June 2022. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments amounting to £1715.
2. A CMD was set for 25th January 2023. In the early hours of the morning of 25th January 2022 the Respondent emailed to advise that she did not feel that she could attend the CMD due to anxiety due to her relationship with the Applicant.
3. A new date was set for a hearing for 29th March 2023 at 10am. A direction was issued to both parties.

4. Service by Advertisement was undertaken upon the Respondent from 21st February 2023 until 29th March 2023.

The hearing

5. A hearing was held on 29th March 2023 at 10am by teleconferencing. The Applicant was represented by Mr Robert Black and Mrs Jeanne Black. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the hearing. The Respondent did not respond to the direction issued on 25th January 2023. Mrs Black said that she did not respond to the direction as she thought she only had to do so after the Respondent had lodged her response.
6. There had been mention of harassment towards the Respondent from the Applicants within the papers. Mr Black explained that this was a false claim arising from a difficult conversation between the Respondent's husband and himself. This resulted in him having his air guns removed by the Police. The Police have since returned the firearms and no further proceedings are being taken by the Police in terms of his firearms. Matters still continue with the accusation of harassment. Mr Black fervently disputes that this happened and noted that the case has been remitted from the Sheriff Court to the Justice of the Peace Court. Mr Black noted that there had been several issues with the tenant. They had to get an eviction order for the unlawful occupation of outbuildings and an eviction order from the Housing and Property Chamber for the property from which this tenancy arose. The Tribunal did not consider this dispute to be pertinent to the outstanding rent arrears.
7. The Tribunal also noted that the Respondent had said that she had made payments by cash. Mr and Mrs Black said that in a previous tenancy in another property payments were made by cash. The payments for this Property have been made by direct debit since at least on or around 2018. There has been no offer of payments from the Respondent. Mr and Mrs Black do not believe that the Respondent had entitlement to Universal Credit and do not know of any outstanding issues relating to benefits.
8. The Tribunal was satisfied that the outstanding amount for £1715 was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

9. A Private Rented Tenancy Agreement commenced 1st February 2018.
10. The Respondent persistently failed to pay her rent charge of £350 per month. The rent payments were due to be paid on 1st day of each month.
11. A rent account was lodged with the papers for the period 1st February 2018 to 27th June 2022 which showed that there were arrears of £1715. The last

payment was made on 1st January 2022. The tenancy ended with an eviction on 27th June 2022.

12. There are no known outstanding Universal Credit Housing Element issues.

13. The arrears sought total £1715.

Decision

14. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £1715.

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.

G Miller

29th March 2023

Legal Member/Chair

Date