



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/22/2177

Re: Property at 33 Johnston Avenue, Stirling, FK9 5DD (“the Property”)

Parties:

Mr Manjinder Sandhu, The Laurels, Abercromby Drive, Bridge of Weir, FK9 4EA (“the Applicant”)

Ms Lesley Ann Marshall, 33 Johnston Avenue, Stirling, FK9 5DD (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mrs F Wood (Ordinary Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in the sum of £6500.

Background

1. By application received in the period between 4th July and 15th September 2022 and erroneously made under Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £3900, which was subsequently amended to £6500 prior to acceptance of the application. The Applicant’s representative lodged a private residential tenancy agreement commencing on 1st April 2020, a rent statement, and a bank statement.
2. Notification of the application and the forthcoming CMD was made upon the Respondent by Sheriff Officer on 17th November 2022.
3. By email dated 16th December 2022, the Applicant’s representative lodged an updated rent statement showing rent arrears in the sum of £8450.

The Case Management Discussion

4. A CMD took place by telephone conference on 19th December 2022. Neither party was in attendance. The Applicant was represented by Ms Catherine Berrill, Solicitor.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. Ms Berrill confirmed that the application ought to have been made under Rule 111, and moved the Tribunal to amend the Rule number. The Tribunal agreed to the amendment.
7. Ms Berrill moved the Tribunal to grant an application in the sum of £6500, accepting that a timeous application to amend the sum sought had not been made on 16th December 2022. There had been a rent-free period for the first year of the tenancy, as the Property required renovation, and the Respondent's partner was going to carry out the work. There had been talk of the Respondent purchasing the Property but that had not happened. Rent had been paid for a few months after that but then ceased. Rent arrears in the sum of £8450 had accrued.

Findings in Fact and Law

8.
 - (i) Parties entered into a private residential tenancy that commenced on 4th April 2020.
 - (ii) Parties agreed to a rent-free period for the first year of the tenancy on the basis that the Respondent would renovate the Property.
 - (iii) Thereafter, rent was due in the sum of £650 per month.
 - (iv) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - (v) The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

9. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

10. An order for payment is granted in favour of the Applicant in the sum of £6500.

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.

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Legal Member/Chair

Date

19th December 2022