



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/22/2250

Re: Property at 12/4 Boat Green, Edinburgh, EH3 5LN (“the Property”)

Parties:

Mrs Sheila Grieve, Ms Maureen Anderson, Almond Lodge, Path Brae, Kirkliston; 5484 Deer Run Court, Davidson, USA, NC28036, United States (“the Applicant”)

Mr Scott Kerr, who formerly resided at 12/4 Boat Green, Edinburgh, EH3 5LN and whose present whereabouts are unknown (“the Respondent”)

Tribunal Member:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it should make an order for payment for the sum of ONE THOUSAND SIX HUNDRED AND NINETY ONE POUNDS AND NINETY FOUR PENCE (£1,691.94) STERLING

Background

1. An application had been received under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking a payment order against the Respondent.
2. The application contained:-
 - a. a copy of the tenancy agreement; and
 - b. a copy of the rent statement.

3. The Applicant's agent, Lee Simpson from Saltouns Property Lettings appeared at the case management discussion on 29 June 2023. There was no appearance by the Respondent. Service on the Respondent had been by advertisement. There was a certificate of advertisement for today's case management discussion. As I was satisfied that service had taken place by advertisement I was prepared to proceed in his absence.

Discussion

4. The Applicant's agent asked the tribunal to grant the order for payment for £1,691.94
5. The agent advised that at today's date the arrears had reduced from the original sum sought of £2,550, this was due to deduction of the deposit. The respondent was aware of the arrears. The respondent had not offered to make any repayment to the arrears. The respondent had vacated the property on 7 August 2022.
6. There was submitted a tenancy agreement and rent statement in support of the application.

Findings in Fact

7. The Tribunal found the following facts established:-
 - a. There existed a private residential tenancy between the Applicant and the Respondent.
 - b. The tenant was Scott Kerr.
 - c. The landlord was Maureen Anderson and Sheila Grieve.
 - d. The tenancy was for the property 12/4 Boat Green, Cannonmills, Edinburgh, EH3 5LN.
 - e. It had commenced on 22 March 2022.
 - f. Clause 8 of the Tenancy Agreement provides that the rent for the property is £850 per calendar month.
 - g. There appeared to be rent arrears outstanding which totalled at least £1,691.94 as at today's date.
 - h. The respondent had vacated the property on 7 August 2022.

Reasons for Decision

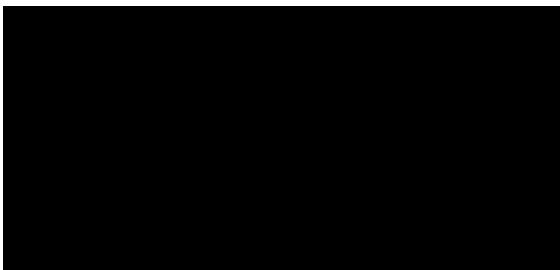
8. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private rented tenancies. As this tenancy is a private rented tenancy I am content that I have jurisdiction to deal with this case.
9. The tenancy agreement created obligations between the parties, which included paying rent. The respondent had failed to make payment of the rent. There was submitted a rental statement showing the arrears due.
10. The respondent had left the property on 7 August 2022 without repaying the rent arrears. Some rent arrears had been repaid due to the application of the deposit to those arrears. Rent arrears remain due.
11. On the basis of the evidence submitted and having regard to all papers submitted with the application and the oral submission by the Agent, I consider that I should make an order for the sum sued.

Decision

12. I grant an order in favour of the Applicant for ONE THOUSAND SIX HUNDRED AND NINETY ONE POUNDS AND NINETY FOUR PENCE (£1,691.94) STERLING against the Respondent.

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.



Legal Member/Chair

29 June 2023
Date