



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/22/3243

Re: Property at 3D Atholl Street, Flat 2/2, Perth, PH1 5NH (“the Property”)

Parties:

Mrs Gayle Walker, 10 Muirbank, Scone, Perth, PH2 6SZ (“the Applicant”)

Mr Lewis Monaghan, formerly residing at 3D Atholl Street, Flat 2/2, Perth, PH1 5NH, and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This was an application for a payment order dated 5th September 2022 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought in her application payment of arrears in rental payments of £950.00 in relation to the Property from the Respondent, and provided with her application copies of the private residential tenancy agreement and rent arrears statement.

The private residential tenancy agreement had been correctly and validly prepared in terms of the provisions of the *Private Housing (Tenancies) (Scotland) Act 2016*, and the procedures set out in that Act appeared to have been correctly followed and applied.

Service was validly effected by advertisement in terms of Rule 6A of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended, and the Tribunal was provided with confirmation of service by advertisement.

Case Management Discussion

A Case Management Discussion was held at 10:00 on 15th March 2023 by Tele-Conference. The Applicant participated, and was not represented. The Respondent did not participate, nor was he represented.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Tribunal was invited by the Applicant with reference to the application and papers to grant an order for payment of the sum of £950.00. She explained that the lease ended on 24th June 2022, and referred the Tribunal to the rent arrears statement which disclosed that arrears of £1,425.00 accumulated from 26th February 2022 to the end of the lease. The Applicant recovered the whole of the tenancy deposit of £475.00, which she deducted from those rent arrears resulting in her application for the sum sought.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

“First-tier Tribunal's jurisdiction

- (1) In relation to civil proceedings arising from a private residential tenancy—
- (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
- (2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
- (a) the prosecution of a criminal offence,
 - (b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the terms of the private residential tenancy agreement, the rent arrears information provided, and the submissions made by the Applicant, and was satisfied that these disclosed an outstanding balance of rent arrears totalling £950.00. Rent of £475.00 per month was due in terms of Clause 7 of the tenancy agreement. Accordingly, the Tribunal made an order for payment of that sum.

Decision

In these circumstances, the Tribunal made an order for payment by the Respondent to the Applicant of the sum of £950.00.

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.

Neil Kinnear

15/03/2023

Legal Member/Chair

Date