



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 (“the Act”) and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/22/4239

Re: Property at 17 Briarcroft Place, Glasgow, G33 1RF (“the Property”)

Parties:

Mr David Kenna, 136 Robroyston Road, Glasgow, G33 1RF (“the Applicant”) per his agents, DJ Alexander Lettings Limited, 1, Wemyss Place, Edinburgh, EH3 6DH (“the Applicant’s Agents”)

Ms Natalie Wright residing sometime at the Property and now at 29 Lavender Crescent, Glasgow, G33 6PF and Mr Richard Brown, residing sometime at the Property and now whereabouts unknown (“the Respondents”)

Tribunal Members:

Karen Moore (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment in the sum of THREE THOUSAND ONE HUNDRED AND TWELVE POUNDS AND SIXTY TWO PENCE (£3,112.62) Sterling be granted.

Background

1. By application received on 24 November 2022 (“the Application”), the Applicant’s Agents on behalf of the Applicant applied to the Tribunal for an Order for payment of rent arrears arising from a tenancy between the Parties. The Application comprised statements of rent of £4,072.23 due and owing by the Respondents, copy tenancy agreement between the Parties, and copy correspondence between the Applicant and the Respondent in respect of pre-action requirements.

2. The Application was accepted by the Tribunal and a Case Management Discussion (the "CMD") was fixed for 16 February 2023 at 11.30 by telephone conference. The CMD was intimated to the Parties.
3. Prior to the CMD, the Applicant's Agents advised the Tribunal that the first-named Respondent had accepted liability for the sum sought and had offered to make payment by monthly instalments of £1,000.00, which offer was evidenced by email exchanges between the Parties. The CMD was postponed at the Applicant's Agents' request for settlement.
4. The postponed CMD was fixed for 14 April 2023 at 10.00 by telephone conference. The postponed CMD was intimated to the Parties. Prior to the postponed CMD, the Applicant's Agents amended the sum sought to £3,112.62. Also, prior to the postponed CMD first-named Respondent advised the Tribunal by email that she had Covid and might be too unwell to attend. The Tribunal advised that a medical certificate would be required. No medical certificate was submitted.
5. The postponed CMD took place on 14 April 2023 at 10.00 by telephone conference by telephone. The Applicant did not take part and was represented by Ms. Greeney of the Applicant's Agents. The Respondents did not take part and were not represented. They did not submit any written representations. The outcome was that the Tribunal granted the Order as sought.

Recall

6. By email dated 3 May 2023, the first-named Respondent applied for a recall of the decision by the Tribunal in terms of Rule 30 of the Rules. Medical evidence accompanied the application for recall and so the Tribunal recalled the Order granted on 14 April 2023.
7. A fresh CMD was fixed for 27 July 2023 at 14.00 by telephone conference. The CMD was intimated to the Parties. Prior to that CMD, the first-named Respondent advised the Tribunal by email that she was in hospital and might not be able to attend. She also requested time to pay. The Tribunal advised that a medical certificate would be required and issued the first-named Respondent with a Time to Pay Direction Application. Neither a medical certificate nor a Time to Pay Direction Application was submitted.

CMD

8. The postponed CMD took place on 27 July 2023 at 14.00 by telephone conference. The Applicant did not take part and was represented by Ms. Young of the Applicant's Agents. The Respondents did not take part and were not represented. They did not submit any written representations.
9. Ms. Young confirmed the rent arrears remain outstanding and confirmed that the Order was still sought.

Findings in Fact

10. From the Application and the CMD, the Tribunal made the following findings in fact: -
- i) There had been a tenancy of the Property between the Parties at a monthly rent of £1,100.00 and
 - ii) Rent amounting to £3,112.62 is due and owing due and owing by the Respondents to the Applicant.

Decision

11. Having made those findings, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussionincluding making a decision” and so proceeded to make an order for payment in the sum of £3,112.62.

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.

K. Moore

Legal Member/Chair

27 July 2023

Date