



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016.

Chamber Ref: FTS/HPC/CV/23/0131

Re: Property at 18 Emma Jay Road, Bellshill, Lanarkshire, ML4 1HX (“the Property”)

Parties:

Ms Hanan Kattan, Ms Shamim Sarif, 151 Copse Hill, London, SW20 0SU (“the Applicant”)

Mr Robbie McDonald, 18 Emma Jay Road, Bellshill, Lanarkshire, ML4 1HX (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondent for the sum of £3275.00.

Introduction

This Case Management Discussion concerned an Application for civil proceedings in relation to a Private Residential Tenancy under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The hearing took place by teleconference.

1. Attendance and Representation

Finlay Dunsmore, Let It Glasgow, 123 Stockwell Street, Glasgow, G1 4LT attended for the Applicants.

The Respondent was not present.

The Respondent was served by Sheriff Officer on 11th April 2023.

2. Preliminary Matters.

The Respondent was not present. The Applicant's representative said that on 26th April 2023 the letting agent had confirmed the Respondent was still resident in the property. The last contact between parties was on 6th February 2023 between email.

The Applicant's representative lodged a rent statement on 2nd May 2023 and the rent arrears in terms of same were £4275. the Applicant's representative noted that there was insufficient time in terms of formally amending the application in term of the procedure rules and notice on the Respondent.

There were no other preliminary matters raised.

3. Case Management Discussion.

The Applicant's representative stated that the Applicants sought a payment order against the Respondent. The Applicant sought a payment order for £3275 in terms of the Application dated 12th January 2023. The Applicant's representative referred to the terms of the rent statement lodged which the application and confirmed same was accurate. The Tribunal asked the Applicant's representative about the deposit element sought in the application and within the statement. The Applicant's representative said that the property was inherited from another letting agent and in 5 or 6 cases that were taken over by his agency the deposit was permitted to be paid in instalments. The Applicant's representative said that it was on this basis given that all the payments to this had not been met that there was a remaining amount of £175 due.

4. Findings in Fact

1. This Application is dated 12th January 2023 and brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicants are the heritable proprietors of the property.
3. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 1st October 2020.
4. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
5. Rent payable under this tenancy was £325 per month.

6. The deposit in terms of the tenancy was £325. The Respondent paid £150 of this deposit.
7. As at the application the rent and deposit due by the Respondent to the Applicant was £3275.

5. Reasons for Decision

The Tribunal was satisfied that the Applicants were the heritable proprietors of the Property. The Tribunal was satisfied that there was a Private Residential Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the respondents were in arrears of rent lawfully due and a Rent Statement for the property was lodged. Rent owed and deposit owed from same amounted to £3275. Accordingly in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £3275.

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 Kirk

Legal Member

Date: 11/05/2023