



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/23/0531

Re: Property at Flat 3 (PF4), 104 Dalry Road, Dalry, Edinburgh, EH11 2DW (“the Property”)

Parties:

Zoers Limited Company, Sackville House, 40 Piccadilly, London, W1J 0DR (“the Applicant”)

Mr Lewis Cation, 80 Gogarloch, Syke, Edinburgh, EH12 9JB (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondents for £7972.35.

This was a Case Management Discussion to consider the application dated 20th February 2023 brought before the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended for civil proceedings in respect of a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The discussion took place by teleconference.

1. Attendance and Representation.

The Applicants were represented by Mrs Olga Godfrey, Umega Lettings 10 Lister Square Edinburgh, EH3 9GL

The Respondent was not present. The Respondent had been served by sheriff Officer on 22nd June 2023.

2. Preliminary Matters

The Applicant's representative said that there had been no contact with the Respondent. She had taken over management of the property from her colleague in June 2023. She had made contact with the Respondent and she was unable to engage with him.

There were no other preliminary matters discussed.

3. Case Management Discussion

The Applicant's representative told the Tribunal the Applicant sought a payment order of £7972.35 against the Respondent. The Applicant's representative said that there had been issues with rent arrears for the property since around February 2021. At that time her colleague was managing the property. Rent had been missed a couple of times and the Respondent was reaching out and offering payment plans. She said that at times thereafter there were some further rent breaks and further support offered by the team. The Respondent was engaging and looking to make payment but it did not happen. The Applicant issued a Notice to Leave and was looking to seek an eviction order. The Respondent negotiated a leaving date and left the property in January 2023. Deductions from the deposit were arranged and the remainder applied to the rent arrears. An up to date rent statement dated 28th March 2023 had been lodged showing the rent lawfully due by the Respondent to the Applicant at the date he left as £7972.35. The Applicant sought an order for this amount.

4. Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective. The Respondent had been served on 22nd June 2023.**
- 2. The Applicant and the Respondent entered into a Private Residential Tenancy on 4th June 2020. A copy of same was lodged.**
- 3. Monthly contractual rent in terms of the Tenancy was £845.**
- 4. The Applicants have title to pursue civil proceedings in regards the tenancy between parties. The Tribunal had sight of the Applicant's landlord registration and title deeds for the property.**
- 5. A rent statement dated 28th March 23 and lodged showed final rent arrears of £7972.35 due to the end of the tenancy in January 2023.**

6. The tenancy ended in January 2023 and a portion of the deposit was applied to the rent arrears.
7. The Respondent is liable for the rent arrears due in terms of the tenancy.
8. The Respondent owes to the Applicants in terms of the said tenancy rent arrears due at the sum of £7972.35.
9. 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 £7972.35 against the Respondent.

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 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 respondent were in arrears of rent lawfully due of £7972.35 having regard to the lodged up to date rent statement dated 28th March 2023. The Applicants had deducted the deposit monies as appropriate to the rent arrears and the Respondent had left the tenancy in January 2023. 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 £7972.35 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.

Karen Kirk

3rd August 2023

Legal Member/Chair

Date