



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/23/0549

Re: Property at 4 Baird Drive, Erskine, PA8 6BA (“the Property”)

Parties:

PLP 0 Limited, 10/12 High Street, Renfrew, PA4 8QR (“the Applicant”)

Miss Jacqueline Shearer, Mr Robert McBain, UNKNOWN, UNKNOWN; UNKNOWN, UN4KNOWN (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondents to the Applicant in the sum of £8169.92.

Background

1. By application dated 19 February 2023 the Applicant’s representatives, Penny Lane Homes, Paisley, applied to the tribunal for an order for payment in respect of alleged rent arrears of £8169.92 arising from the Respondents tenancy of the property. The Applicant’s representatives submitted a rent statement and tenancy agreement in support of the application.
2. Following further correspondence between the Tribunal administration and the Applicant’s representatives by Notice of Acceptance dated 18 May 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Sheriff Officers attempted to serve the case papers on the Respondents at the property on 20 June 2023 but were unable to do so as the Respondents were no longer living there. The CMD was postponed and intimation of a further CMD

was made to the Respondents by way of Service by Advertisement on the Housing and Property Chamber website as their current address was unknown.

4. By email dated 26 September 2023 the Applicant's representatives submitted a further rent statement showing rent due of £10469.23 for the period to 4 July 2023.

The Case Management Discussion

5. A Case Management Discussion ("CMD") was held by teleconference on 27 September 2023. The Applicant was represented by its Director Mr Mark Canning and Mr Ian Troy from its representatives Penny Lane Homes, Paisley. The Respondents did not attend nor were they represented. The Tribunal noted that service on the Respondents had been by way of advertisement on the Housing and Property Chamber website as their current address was unknown. The Tribunal being satisfied that proper service on the Respondents had been given determined to proceed in their absence.
6. The Tribunal asked Mr Troy when the Respondents had left the property and was advised that the end date of the tenancy was 9 July 2023. The Tribunal queried why if that was the case were contractors working in the property on 20 June when Sheriff Officers attempted to serve the case papers on the Respondents and when it was also being advertised for let. Mr Troy appeared uncertain and Mr Canning explained that Mr McBain had left the property earlier but had advised that Ms Shearer had remained in the property. Neither Mr Canning nor Mr Troy knew the exact date the Respondents had vacated the property. Mr Canning said the Respondents had not returned the keys and the property had been left in a filthy condition and required extensive cleaning and repairs.
7. The Tribunal noted that at the date of the application the rent statement showed that the Respondents owed rent of £8169.92 and asked Mr Troy what he wished the Tribunal to do. Mr Troy referred the Tribunal to the rent statement submitted on 26 September 2023 and asked the Tribunal to grant an order for payment in the increased sum of £10649.23.
8. The Tribunal referred Mr Troy to the terms of Rule 14A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Regulations") and explained that any application to amend the sum claimed required to be submitted to the Tribunal not less than 14 days prior to the CMD and intimated to the Respondents at the same time. The Tribunal explained that as the Applicant's representatives had not submitted an application to amend and had not intimated any application to the Respondents the Tribunal could not consider at this stage an application to increase the sum claimed.
9. Mr Troy then asked if the Tribunal would grant an order for payment in the sum contained in the application namely £8169.92.

Findings in Fact

10. The parties entered into a Private Residential Tenancy agreement that commenced on 4 March 2019 at an initial rent of £720.00 per calendar month but that was subsequently reduced by agreement between the parties to £620.00 per calendar month.
11. The Respondents accrued rent arrears amounting to £8169.92 for the period to 4 March 2023.
12. The Respondents had vacated the property by 20 June 2023.
13. The current whereabouts of the Respondents are unknown.
14. Service of these proceedings on the Respondents was by advertisement on the Housing and Property Chamber website conform to Certificate of Advertisement dated 27 September 2023.

Reasons for Decision

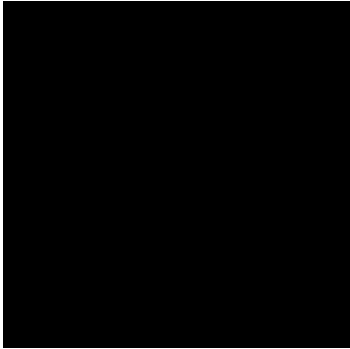
15. The Tribunal was satisfied from the written representations, documents and oral submissions that the parties entered into a Private Residential Tenancy that commenced on 4 March 2019. Although the initial rent was £720.00 per calendar month the Tribunal was satisfied that it had been agreed by the parties from early in the tenancy that the rent should be reduced to £620.00 per month. The Tribunal was also satisfied from the documents produced and the oral submissions that by February 2023 the Respondents owed rent amounting to £8169.92 for the period to 4 March 2023.
16. The Tribunal was not prepared to entertain any amendment to the sum claimed as no proper application to amend had been made in terms of Rule 14A of the 2017 Regulations. There was also considerable uncertainty as to the exact date when the Respondents moved out of the property.
17. The Tribunal was however satisfied that the Applicant was entitled to an order for payment in respect of the rent due by the Respondents as at the date of the application and that in terms of the 2017 Regulations proper intimation of the proceedings had been given to the Respondents by way of Service by Advertisement and that in all the circumstances an order for payment should be granted.

Decision

18. The Tribunal being satisfied it had sufficient information before it to make a decision without the need for a hearing finds the Applicant entitled to an order for payment by the Respondents to the Applicant in the sum of £8169.92.

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

27 September 2023
Date