



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/23/1037

Re: Property at 41a Newtoft Street, Edinburgh, EH17 8RB (“the Property”)

Parties:

Mr Fraser Sandison, Louise Sandison, 18 Gilmerton Station Road, Edinburgh, EH17 8RZ (“the Applicant”)

Mr Ben Gray, Ashley Forrest, 41A Newtoft street, Edinburgh, EH17 8RB; 23/1 Grove Street, Edinburgh, EH3 8AF (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that it should make an order for payment for the sum of THREE THOUSAND TWO HUNDRED AND FORTY THREE POUNDS (£3,243.00) STERLING

Background

1. An application had been received under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking a payment order against the Respondent.

2. The application contained:- a copy of the tenancy agreement and a copy of the rent statement.
3. The Applicant's representative, Mr Barr from DJ Alexander, appeared on behalf of the Applicant. The applicant Mr Sandison also appeared. There was no appearance by either Respondent.
4. The Respondents had been served with notice of today's case management discussion by sheriff officers on 17 May 2023. As we were satisfied that they had received notice of this case management discussion we were prepared to proceed in their absence.

Discussion

5. The Applicant's agent asked the tribunal to grant the order for payment for £3,243.
6. He advised that the arrears had reduced slightly from £3,495 and were currently £3,243. He advised that the Respondents were aware of the arrears. He advised that the letting agent contacts the Respondent monthly about the rent arrears.

Findings in Fact

7. The Tribunal found the following facts established:-
8. There existed a private residential tenancy between the Applicants and the Respondents. It had commenced on 16 December 2021.
9. The tenancy was for the property 41A Newton Street, Edinburgh, EH17 8RB.
10. The tenants were Ashley Forrest and Ben Gray.
11. The landlords were Fraser Sandison and Louise Sandison.

12. Clause 8 of the Tenancy Agreement provides that the rent for the property is £890 per calendar month. It is payable in advance and due on the 16th of each month.

13. There appeared to be rent arrears outstanding of £3,495 at 16 March 2023.

14. The rent arrears had reduced slightly since March and there now appeared to be rent arrears outstanding of £3,243 at 23 June 2023.

Reasons for Decision

15. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is a private residential tenancy we are content that we have jurisdiction to deal with this case.

16. The tenancy agreement created obligations between the parties, which included paying rent. The Respondents had failed to make full payment of the rent. There was submitted a rental statement showing the arrears due. The Respondent was in breach of the condition of the tenancy agreement regarding payment of rent. There was evidence in support of the claim. The applicant's agent confirmed the up-to-date position in terms of the rent arrears that they had reduced slightly.

17. On the basis of the evidence submitted and having regard to all papers submitted with the application, we consider that we should make an order for the sum sued.

Decision

18. We grant an order in favour of the Applicants for THREE THOUSAND TWO HUNDRED AND FORTY THREE POUNDS (£3,243.00) STERLING against the Respondents.

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

Date: 26th June 2023