



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/23/1058

Re: Property at 88 Paterson Street, Ayr, KA8 9HD (“the Property”)

Parties:

Grant Property Enterprises Ltd, 21 St Vincent Crescent, Ayr, KA7 4QW (“the Applicant”)

Miss Nicole Campbell, 56B Peggieshill Road, Ayr, KA7 3RQ (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision

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 Respondent to the Applicant in the sum of £3900.00.

Background

1. By application dated 2 April 2023 the Applicant applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant submitted a copy of the tenancy agreement together with a rent statement and copy emails and text messages in support of the application.
2. Following further correspondence between the Applicant and the Tribunal administration the sum claimed was confirmed to be £3900.

3. 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.
4. Intimation of the CMD was served on the Respondent by Sheriff Officers on 26 June 2023.

The Case Management Discussion

5. A CMD was held by teleconference on 2 August 2023. The Applicant was represented by Mr Brian Grant. The Respondent attended in person.
6. Mr Grant advised the Tribunal that the rent arrears amounted to £5100.00 at the time the Applicant obtained vacant possession of the property in June 2023. He accepted that the sum claimed had not been amended to reflect the increased amount due.
7. The Tribunal asked the Respondent if she accepted that she did not move out of the property until June. The Respondent said that she moved out into temporary accommodation on the 20 or 28 February 2023 but had not advised the Applicant. She explained that she had certain personal issues ongoing at that time including having to put her dog to sleep. She went on to say that she had left her belongings in the property for some time and had required the assistance of the Council to move them. She said she was not entirely sure of the date that her belongings would have finally been removed from the property but that the Applicant would have received an email from the Council confirming the date. For the Applicant Mr Grant advised that the Applicant had received confirmation the Respondent’s belongings had been removed on 19 June 2023. The Respondent confirmed that her belongings would finally have been removed from the property just before 19 June.
8. The Tribunal queried with the Respondent if she accepted that the Applicant was entitled to be paid rent for the property until she removed her belongings from it and returned the keys. The Respondent said that she understood it was her responsibility to pay rent but that she was not in a financial position to pay it. She said that she had other debts and was unemployed.
9. The Tribunal queried what the position was with regards to the Respondent’s deposit and the Respondent advised that she had agreed that this should be paid to the Applicant.
10. Mr Grant confirmed that he was not seeking to amend the sum claimed and asked the Tribunal to grant an order for payment in the sum of £3900.00.

Findings in Fact

11. The parties entered into a Private Residential tenancy that commenced on 2 January 2020 at a rent of £400.00 per calendar month.
12. The Respondent paid a deposit of £400.00 at the commencement of the tenancy.
13. The Respondent accrued rent arrears from about May 2022 until she vacated the property.
14. The Respondent moved out of the property on or about the 28 February 2023 but left her belongings in the property and did not return the keys.
15. The Applicant was advised the Respondent's belongings had finally been removed on 19 June 2023
16. The Respondent owed rent of £5100.00 as at 2 June 2023 and this amount was still outstanding at the date of the CMD.
17. The Respondent had agreed that her deposit of £400.00 was to be paid to the Applicant by the Tenancy Deposit Scheme.
18. The Applicant did not seek to amend the sum claimed.
19. The Respondent accepted she had a liability to pay rent for the period her belongings remained in the property and she retained the keys to the property.

Reasons for Decision

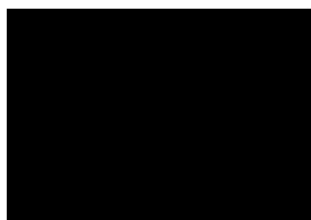
20. The Tribunal was satisfied from the written representations and documents submitted by the Applicant's representatives together with the oral submissions that although the Respondent may have moved herself out of the property at the end of February or sometime in March 2023, she retained the use of the property to store her belongings. The Respondent confirmed that her belongings were moved out over a long period of time and with the assistance of the local Council. The Applicant therefore did not obtain vacant possession of the property until sometime in June 2023 and was entitled to claim rent until then. The respondent had agreed that her deposit of £400.00 should be paid to the Applicant. the rent due by the Respondent to June 2023 amounted to £51200.00 after deduction of the deposit the balance outstanding was £4700.00. The Applicant did not seek to increase the sum claimed and therefore in all the circumstances the Tribunal was satisfied that the Applicant was entitled to an order for payment in the sum of £3900.00.

Decision

21. The Tribunal being satisfied it has sufficient information before it to make a determination without the need for a hearing and the facts not being disputed finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £3900.00.

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.



**Graham Harding
Legal Member/Chair**

**2 August 2023
Date**