



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/20/2610

Re: Property at 82 Westwellhall Wynd, Hamilton, ML3 9GA (“the Property”)

Parties:

Glenmere Properties Ltd, C/O 48-50 Cadzow Street, Hamilton, ML3 6DT (“the Applicant”)

Mr Mark Murphy, Ms Louise Leckie, 82 Westwellhall Wynd, Hamilton, ML3 9GA (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Tony Cain (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that:

Background

This is an Application for a Payment Order in respect of rent arrears said to have been accrued by the Respondents in terms of a Private Residential Tenancy between the parties at the Property. The Applicant had lodged an updated rent statement in advance of the Case Management Discussion that provided a detailed account of all payments made by the Respondents and those payments said to have gone unpaid. It purported to confirm that no contractual monthly rental payments of £595.00 had been paid by the Respondents since January 2020. The arrears were now said to be in the sum of £9,198.86. The sum sought in the Application was £5,345.25.

There had been a previous Case Management Discussion at which the Application had been refused in part because of the non-attendance of the Applicant. The Tribunal had granted an Application for a recall of that decision and assigned a further Case Management Discussion.

Case Management Discussion

The Application called again today at 10 am on 14 July 2021 by conference call. The details of today's Case Management Discussion had been sent to the Respondents together with information about how to join the conference call on 7 June 2021.

The Applicants were represented on the call by Mr Gildea, Solicitor Advocate. There was no appearance by or on behalf of the Respondents. On the basis that intimation of the Application had properly been made, the Tribunal decided to proceed to hear the Application in their absence.

Mr Gildea had informed the Tribunal in advance that the Respondents had vacated the Property on 30 June 2021 and that he was seeking a Payment Order in the sum of £9,198.86.

The Tribunal noted however that no Application to amend the sum sought in the Application had been made and that accordingly the Tribunal would restrict itself to considering whether the sum of £5,345.25 or any lesser amount should be awarded.

Mr Gildea asked the Tribunal not to take any deposit paid into account as he explained that there had been damage to the Property caused by the Respondents and the deposit would likely be required to make good the associated costs.

Having heard from Mr Gildea and having considered the Application, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a Private Residential Tenancy in respect of the Property which commenced on 17 July 2019;*
- II. *The Applicant was the landlord and the Respondents were the tenants;*
- III. *The contractual monthly rent due was £595.00;*
- IV. *The Respondents fell into rent arrears and ceased making any rental payments after January 2020;*

- V. *As at today's date the sum of £9,198.86 is lawfully due as rent arrears by the Respondents to the Applicant but remains unpaid;*
- VI. *The sum sought in the Application of £5,345.25 was similarly due but unpaid at the time the Application was lodged.*

Reasons for Decision

Having made the above findings in fact, the Tribunal decided to grant the Application and make a Payment Order in the sum of £5,345.25.

The Tribunal thereafter raised the issue of whether any interest should run on that sum. The Tribunal decided that interest should run on that sum at the rate of 1 per cent per year from today's date until payment and Mr Gildea indicated he was content with that figure.

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.

Andrew McLaughlin

Legal Member/Chair

14/07/2021

Date