



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/21/2484

Re: Property at 17 Edmond Gardens, Kingswells, Aberdeen, AB15 8PL (“the Property”)

Parties:

Mrs Eleanor Mann, 138 Seafield Road, Aberdeen, AB15 7YN (“the Applicant”)

Ms Lauren Allan, Mr Daniel Mann, C/O Murray Ormiston LLP, Union Chambers, 46a Union Street, Aberdeen, AB10 1BD; 20A Justice Mill Brae, Aberdeen, AB11 6EY (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment from both Respondents amounting to £1206.30 (ONE THOUSAND AND SIX POUNDS AND THIRTY PENCE) and an order for payment from the Second Named Defender only, Mr Daniel Mann, amounting to £1169.86 (ONE THOUSAND ONE HUNDRED AND SIXTY NINE POUNDS AND EIGHTY SIX PENCE)

Background

1. An application was received by the Housing and Property Chamber dated 12th October 2021. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondents not maintaining rent payments.
2. On 17th November 2021 all parties were written to with the date for the Case Management Discussion (“CMD”) of 20th December 2021 at 10am by teleconferencing. The letter also requested all written representations be submitted by 8th December 2021.

The Case Management Discussion

3. A CMD was held on 20th December 2021 at 10am by teleconferencing. The Applicant was represented by Ms Lisa Campbell, Stonehouse Lettings. The Respondents were present.
4. Ms Campbell told the Tribunal that the amount sought of £2376.16 was still outstanding. Mr Mann had reached an agreement with the Applicant to leave without the requirement of giving 28 days notice. The deposit of £700 has been returned to the Applicant.
5. Mr Mann said that he had wanted to take over the Property admitting the arrears on a joint and several basis. He had not been living in the Property but simply using it as a place to collect his son from in terms his contact agreement.
6. Ms Allan said that she left the Property on 4th February 2021 and emailed the letting agent on 5th February 2021. She was told that Mr Mann needed to confirm she had left before she could be removed from the tenancy. She considered that other places could have been arranged for contact with their son. She only contacts Mr Mann through their solicitors. She did note that he emailed the letting agent on 19th March 2021 to confirm that she had moved out of the Property and that he was taking it over. She paid £400 over to him for the January rent but he had failed to pay it to the Applicant.
7. Ms Campbell told the Tribunal that she considered Ms Allan as a joint tenant until such time as Mr Mann signed a new lease. A new lease was not signed and so she considered both Respondents joint and severally liable for the outstanding arrears.
8. The Tribunal considered that Ms Allan no longer became liable for the rent when a new Private Rented Tenancy ("PRT") was created. Mr Mann had ended the joint tenancy when he emailed to confirm that Ms Allan had left. Ms Allan is jointly and severally liable for the arrears up until and including 19th March 2021. Both parties confirmed they jointly paid the deposit so this was deducted from this proportion of the arrears. Mr Mann was, therefore, liable for the arrears from 20th March 2021 to the end of the tenancy.
9. The Tribunal calculated the daily amount of the rent to be £23.01 per day ($£700 \times 12 = £8400$. $£8400/365 = £23.01$). The arrears calculated until 8th March were £1400. The remaining 11 days were added at a total of £253.15 ($£23.01 \times 11 = £253.15$) giving an outstanding sum of £1906.30. The £700 deposit was deducted leaving the Respondents jointly and severally liable for £1206.30. Mr Mann was liable for the remaining amount of £1169.86 ($£2376.16 - £1206.30 = £1169.86$). The Tribunal put these figures to all parties. Nobody objected to them and were content with the outcome.
10. The Tribunal was satisfied that the outstanding amount for £2376.16 was due to the Applicant by the Respondents in the form of £1206.30 by both Respondents and £1169.86 by Mr Mann only. The Tribunal considered it was appropriate to grant orders detailing both amounts accordingly.

Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced 5th August 2019.
12. The Respondents persistently failed to pay the rent charge of £700 per month. The rent payments were due to be paid on the 9th day of each month.
13. Ms Allan accepted joint and several liability with Mr Mann for the arrears until when Mr Mann confirmed she had left on 19th March 2021. This amount totalled £1206.30.
14. Mr Mann confirmed that he was jointly and severally liable with Ms Allan for £1206.30 and liable solely for the remainder of the arrears amounting to £1169.86

Decision

15. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £1206.30 from both Respondents jointly and severally and solely from the second named Respondent, Mr Daniel Mann, amounting to £1169.86.

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.

Gabrielle Miller

20th December 2021

Legal Member/Chair

Date