



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/22/0313

Re: Property at 37 Abbotsford Road, Cumbernauld, Glasgow, G67 4BP (“the Property”)

Parties:

Mrs Sharon Mcgrath, 20 Binniehill Road, Cumbernauld, Glasgow, G68 9JJ (“the Applicant”)

Miss Shannon Mcallister, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment from the respondent for £5102.53 (FIVE THOUSAND ONE HUNDRED AND TWO POUNDS AND FIFTY THREE PENCE)

Background

1. An application was received by the Housing and Property Chamber dated 2nd February 2022. 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 Respondent not maintaining rent payments.
2. On 9th March 2022 all parties were written to with the date for the Case Management Discussion (“CMD”) of 29th April 2022 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 30th March 2022. Service by Advertisement was undertaken upon the Respondent from 9th March 2022.

The Case Management Discussion

3. A CMD was held 29th April 2022 at 2pm at 2pm by teleconferencing. The Applicant was not present but was represented by Ms Sandy Wooley, Trainee Solicitor, Bannatyne Kirkwood France & Co. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the hearing.
4. Ms Wooley informed the Tribunal that the last contact made by the Respondent was when the Respondent left the Property in August 2021. There have been no offers of payment. There are no outstanding Housing Benefit issues that would reduce the amount due. The deposit was credited against the rent account, a copy of which had been submitted to the Tribunal. Ms Wooley was not aware of any other matters that would prevent an order being granted.
5. Ms Wooley motioned for interest to be included within the award. The Tribunal refused this motion. There is no contractual obligation for interest to be applied to the arrears in the PRT. The exact amount of interest sought had not been included in the application or notified since then. Ms Wooley suggested 3% per annum as part of her motion. The Tribunal noted that this would have been able to be considered had this been part of the application or notified a week in advance in terms of rule 13 of the Rules. It does not give the Respondent due notice when a varying amount of interest could be applied. The Tribunal noted that 3% was a relatively high amount relative to the base rate and would have need to have been justified.
6. The Tribunal was satisfied that the outstanding amount for £5102.53 was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

7. A Private Rented Tenancy Agreement commenced 7th December 2018.
8. The Respondent persistently failed to pay her rent charge of £395 per month. The rent payments are due to be paid on 7th day of each month.
9. There are now outstanding Housing Benefit issues.
10. There has been no contact from the Respondent since she left the Property in August 2021. She has not made any offer of payment to address the arrears.
11. The arrears sought total £5102.53.

Decision

12. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £5102.53.

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.

G. M

29th April 2022

Legal Member/Chair

Date