



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/22/1168

Re: Property at 50 Torbrex Road, Cumbernauld, G67 2JR (“the Property”)

Parties:

Mr Joe Scullion, 2a Westmount Park, Newtownards, BT23 4BP (“the Applicant”)

Mr David Gray, 93 Westwood Avenue, Ayr, KA8 0RQ (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant in the sum of £2475.

Background

1. By application received on 25th April 2022 and made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £2815.51 in respect of alleged unpaid rent, sheriff officer and legal fees, together with interest. The Applicant’s representative lodged a rent statement, and a private residential tenancy agreement commencing on 1st December 2019.
2. By email dated 26th July 2022, the Applicant’s representative lodged productions comprising correspondence between the parties, correspondence with sheriff officers, sheriff officer’s invoice and photographs.
3. By email dated 18th August 2022, the Applicant’s representative informed the Tribunal they had withdrawn from acting.
4. A Case Management Discussion (“CMD”) took place by telephone conference on 15th September 2022. The Applicant was not in attendance. The Respondent was in attendance. The Applicant was represented by Mr Thomas Gallagher,

Trainee Solicitor, his firm having been instructed by sheriff officers acting for the Applicant. The file had recently been passed to him, but he had no instructions from the Applicant. Mr Gallagher asked that the matter be continued to allow him to take instructions.

5. The Respondent said he was willing to pay what he owed, and had tried to make contact with the Applicant's letting agent on numerous occasions to set up a payment plan. However, he had issues in relation to repairing matters and environmental issues throughout the tenancy. He was advised to take legal or other suitable housing advice if he intended to put forward any defence in respect of the outstanding arrears, and whether or not they were lawfully due, given the repairing issues. The Respondent accepted he did not hand the keys back, and that the tenancy did not end until January 2022. He mentioned seeking compensation in respect of the repairing issues.
6. The CMD was continued to a further CMD to allow the Applicant to instruct his representative.
7. Notification of a further CMD to take place on 17th November 2022 was made to parties on 14th October 2022.
8. By email dated 3rd November 2022, the Tribunal was notified of a different representative for the Applicant.

The Case Management Discussion

9. A CMD took place by telephone conference on 17th November 2022. Neither party was in attendance. The Applicant was represented by Mr John MacAulay, Solicitor. Mr MacAulay said he had attempted to contact the Respondent by email and telephone recently, with no success.
10. The Tribunal considered the terms of Rule 29. The Tribunal determined that service had been effected in terms of Rule 6A, the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent
11. Mr MacAulay said the Applicant was no longer seeking interest and expenses, and asked the Tribunal to grant an order in the sum of £2475, being the outstanding rent due to the end of the tenancy. Mr MacAulay said the Applicant would come to a payment arrangement with the Respondent.

Findings in Fact and Law

12.
 - (i) Parties entered into a private residential tenancy that commenced on 1st December 2019, with rent due in the sum of £495 per month.
 - (ii) The tenancy ended in January 2022.

- (iii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
- (iv) The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

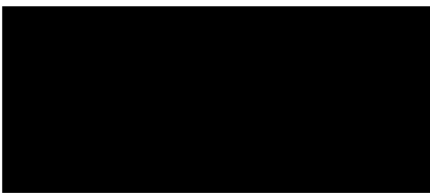
13. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

14. An order for payment is granted in favour of the Applicant in the sum of £2475.

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/Chair

17th November 2022
Date