



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/22/2356

Re: Property at 2 Tanderlane Cottages, Garvald, East Lothian, EH41 4NZ (“the Property”)

Parties:

Mrs Jean Waddell, The Water Tower, Dirleton, East Lothian, EH39 5EQ (“the Applicant”)

Mr Michael Marwick, 2 Tanderlane Cottages, Garvald, East Lothian, EH41 4LL (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of FIVE THOUSAND SEVEN HUNDRED AND EIGHTY-EIGHT POUNDS AND SIXTEEN PENCE (£5,788.16)

Background

1. By application dated 21st June 2022 the applicant sought and order for payment in respect of arrears of rent.
2. The applicant lodged with the application the following documents
 - Copy AT5 dated 18th January 2014
 - Copy AT2
 - Copy correspondence between the applicant’s agents and the respondent in relation to the arrears
 - Rent statement

Case management discussion – 28th November 2022- teleconference

1. A case management discussion took place by teleconference on 28th November 2022.
2. The applicant was present. She was represented by Robert Wardell. The respondent was not present or represented. Notice of the case management discussion together with the application and associated papers were served on the respondent by Sheriff Officers. The respondent had been given proper notice of the case management discussion. The Tribunal determined to proceed with the discussion in the absence of the respondent in terms of Rule 29.
3. Mr Wardell sought an order for payment. A notice of amendment increasing the sum sought to £5788.16 had been lodged with the Tribunal and intimated to the respondent on 12th November 2022. The Tribunal allowed the sum to be increased as sought.
4. Mr Wardell explained that no written tenancy agreement had been entered into between the parties. At the time when the respondent moved into the property he did so under the recommendation of the previous tenant. An AT5 had been given to the tenant at that time. Initially the rent payable had been £550 per month. This was increased to £600 from May 2022. The arrears in the tenancy had been amassing since January 2021. Mr Wardell advised that some housing benefit was now in payment although there continued to be a shortfall between the rent due and the benefit received.

Findings in fact

5. Parties entered into a private residential tenancy agreement with a commencement date of 18th January 2014.
6. The rent due in terms of the tenancy agreement was initially £550 per calendar month and had increased to £600 from May 2022.
7. The respondent owes arrears amounting to £5,788.16.

Reasons for decision

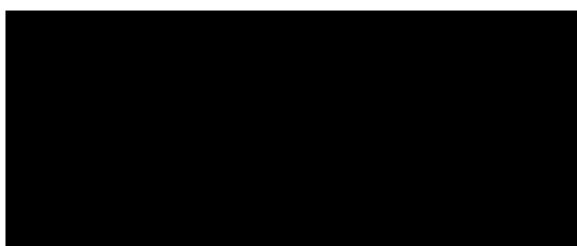
8. The Tribunal had regard to the papers lodged by the applicant and the verbal submissions of the applicant's representative at the case management discussion. The applicant had provided a rent statement evidencing the sums due together with correspondence relating to arrears.
9. The respondent failed to lodge written submissions challenging the order being sought. The respondent failed to attend the case management discussion in person to oppose an order being granted in the terms sought.
10. In the foregoing circumstances the Tribunal accepted the evidence and submissions of the applicants representative and granted the order as sought.

Decision

The Tribunal determined to grant an order for payment in the sum of FIVE THOUSAND SEVEN HUNDRED AND EIGHTY-EIGHT POUNDS AND SIXTEEN PENCE (£5,788.16)

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

28th November 2022_____

Date