



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/22/3097

Re: Property at 36 Birnam Place, Hamilton, ML3 9PU (“the Property”)

Parties:

Mr Colin Tomlinson, 14 Ridgeway Close, Hampshire, S053 2LR (“the Applicant”)

Mr Ross Kennedy, 36 Birnam Place, Hamilton, ML3 9PU (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of ONE THOUSAND SIX HUNDRED AND THIRTY POUNDS (£1630) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an application dated 29 August 2022 made by the Applicant’s agent for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties commencing 12 February 2021 and a rent statement showing arrears of £980.

3. On 13 October 2022 the Applicant's agent lodged an application to increase the sum sought to £1630 in terms of Rule 14A of the Regulations together with an up to date rent statement. The Applicant's agent also intimated a copy of the application to increase the sum sought on the Respondent.
4. On 10 November 2022 the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 1 December 2022. The Tribunal advised parties on 10 November 2022 that a Case Management Discussion ("CMD") under Rule 17 of the Regulations would proceed on 12 December 2022. This paperwork was served on the Respondent by Robert Weir, Sheriff Officer, Glasgow on 11 November 2022 and the Execution of Service was received by the Tribunal administration.
5. The Respondent did not make any written representations by 1 December 2022.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 12 December 2022 by way of teleconference. Mr Reynolds from Smart Move, Estate and Letting Agents appeared on behalf of the Applicant. There was no appearance by or on behalf of the Respondent despite the teleconference starting 5 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence together.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties commencing 12 February 2022 and a rent statement to 13 October 2022 showing arrears of £1630. The Tribunal considered these documents.
8. Mr Reynolds moved the Tribunal to grant a payment Order in the increased sum of £1630. With reference to the tenancy agreement the Tribunal noted that in terms of Clause 8 the Respondent had agreed to pay rent of £325 per month. The Tribunal also noted the last payment to the rent account of £405 was made on 6 May 2022 as shown in the rent statement. On being questioned by the Tribunal, Mr Reynolds advised no further payments had been made.

Findings in Fact

9. The Applicant and the Respondent agreed by way of Clause 8 of a Private Residential Tenancy Agreement starting 12 February 2021 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £325.
10. The Respondent has fallen into arrears of rent. The arrears as of 13 October 2022 were £1630. The last payment made to the rent account by the Respondent was £405 on 6 May 2022.

Reasons for Decision

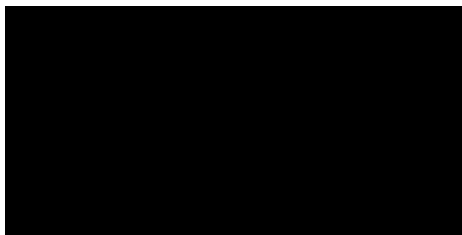
11. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Reynolds.
12. The Tribunal noted the terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to 13 October 2022 as being £1630. Mr Reynolds had produced evidence of persistent non-payment of rent with reference to the rent statement. The Respondent had been given an opportunity to appear before the Tribunal to dispute the Application. He did not do so. The Tribunal was satisfied on the basis of the documents, together with Mr Reynolds' submissions that an order for payment in favour of the Applicant be granted in the amended sum of £1630 in terms of Rule 14A of the Regulations.

Decision

13. The Tribunal granted an order for payment of £1630.

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

12 December 2022

Date