



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/23/0644

Re: Property at 47 Lanehead Terrace, Cumnock, East Ayrshire, KA18 4EW (“the Property”)

Parties:

Mr David Litman, 20 Craigens Road, Cumnock, East Ayrshire, KA18 3AS (“the Applicant”)

Ms Carolanne McCrae, 47 Lanehead Terrace, New Cumnock, East Ayrshire, KA18 4EW (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Ann Moore (Ordinary Member)

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Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondents for £2307.46.

This was a Case Management Discussion to consider an application for Civil Proceedings in respect of a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The discussion took place by teleconference. The purpose of the hearing being to explore how the parties dispute may be efficiently resolved. Parties were advised of the purpose of the Case Management Discussion and the possible decisions which could be made.

1. Attendance and Representation

The Applicant was present and not represented.

The Respondent was not present. She had been served by Sheriff Officer on 9th August 2023.

2. Preliminary Matters

The Applicant referred to the up to date rent statement lodged prior to the Hearing with the clerk as previous copies had not been readable. Same showed the rent arrears as at the date of that statement of 26^h August 2023 was £2307.46. This was less than the amount sought in the application of but supported by the said rent statement. In those circumstances the Tribunal did not consider there to be prejudice in allowing the sum sought to be amended in the absence of the Respondent receiving notice of the amendment.

The Applicant has had no recent contact with the Respondent. The last contact was a text message on 20th August 2023 where she told him there would be no more rent payments or contact as the matter was having an effect on her mental health.

3. Case Management Discussion

The Applicant in reference to his application sought a payment order for rent arrears. The sum sought in the application was more than the statement he lodged at the hearing. He sought the sum of £2307.46. He had emailed the Tribunal earlier on 30th August 2023 seeking payment of a plumbers fee without an invoice and monies for inconvenience. He had no vouching for either and did not insist on same. He sought an order for £2307.46.

1. Findings in Fact

1. The Tribunal was satisfied that a decision could be made in the absence of the Respondent at the Hearing and to do so would be in the interests of the parties, in the interests of justice and having regard to the Overriding objective.
2. The Applicant and the Respondent entered into a Private Residential Tenancy on 2nd November 2020.
3. Rent per calendar month due by the Respondent to the Applicant is £425.
4. The Applicant has title to pursue civil proceedings in regards the tenancy between parties. The Tribunal had sight of the Applicant's landlord registration and title deeds for the property.

5. A rent statement and bank statements lodged showed rent arrears of £2307.46 as at 26th August 2023.
6. The Respondent is liable for the rent arrears to the Respondent.
7. The Respondent owes to the Applicant rent arrears in the sum of £2307.46.

2. Reasons for Decision

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the respondent were in arrears of rent lawfully due to the sum of £2307.46. Accordingly in terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £2307.46 against the Respondents.

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.

Karen Kirk

6th September 2023

Legal Member/Chair

Date