



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/EV/22/1307

Re: Property at 50 Arniston Way, Paisley, PA3 4BZ (“the Property”)

Parties:

Mr Joseph Samuel, 3 Glebe Road, Newton Mearns, Glasgow, G77 6DU (“the Applicant”)

Johnstone Scott, 12B Thrushcraigs Crescent, Paisley, PA2 6PP (“the Respondent”)

Tribunal Members:

Jan Todd (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 of £11,676.78 be granted in favour of the Applicant from the Respondent.

- **Background**

1. This was the first case management discussion (CMD) in respect of an application by the Applicant dated 4th May 2022 for an order for payment of arrears of rent from the Respondent who was the Tenant in a Tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

- A copy of a Tenancy Agreement dated 2nd April 2019 between the Applicant as Landlord and the Respondent who was the Tenant.
- Statement of rent arrears showing a sum outstanding as at 1st May 2022 of £10,555.

- Notice to leave
- S11 notice to local authority.
- Prior to the case being accepted a further rent statement for £11,505 was lodged showing rent due to 1st July 2022.

2. A Case Management Discussion was arranged for originally for 31st October 2022 but the applicant's representative advised that the conjoined eviction action did not need to proceed as the tenant had left and the Tribunal requested a further address to serve this application on the Respondent. The Applicant provided a further address for the Respondent and a new CMD was arranged for 10th January at 10am
3. Service was validly affected on the Respondent by Service by Sheriff Officers who served the papers on the Respondent on 8th December 2022 personally.
4. The Tribunal sent a direction asking for clarification of when the tenancy ended, the final rent due and if there was any deposit.
5. The Applicant responded to the direction on 16th December 2022 advising that the tenancy ended on 11th August 2022 when the keys were returned. That there was no deposit paid and that the amount outstanding to 11th August was £11,676.78. This submission was crossed over to the Respondent. .

- **The Case Management Discussion**

1. The CMD took place by teleconferencing and the Legal Member waited until 10.10 to see if the Respondent was going to join the call. The Respondent did not join and was not represented at the CMD. The Respondent has not lodged any written submissions for the Tribunal to consider.
2. The legal member made introductions and explained the purpose and order of proceedings also advising that the Tribunal could make a decision after a CMD which it could after a hearing if satisfied it was appropriate to do so.
3. The Applicant did not attend on the call but was represented by Ms Daryl Harper and Ms Jacqueline McClelland from Castle Residential. The legal member considered it appropriate to continue with the CMD given that intimation had been given to the Respondent and he has not responded in writing or requested any postponement of today's CMD.
4. Ms Harper spoke first and advised that the Respondent had been the tenant in the Property and had accrued arrears in of £11,767.78 by the date he left on 11th August 2022. She explained that he left by returning the keys under their door mat and sending an e-mail. She confirmed there was no deposit and advised that although the tenant had paid some rent directly to the landlord between April 2020 and July 2021 the remaining sums of £155 due each month was still to be paid and that the full amount of the rent due of £475, was not paid thereafter until he left. Ms Harper confirmed the Applicant is seeking the full amount due today.

5. Ms McClelland advised that the property has been left in a terrible state, which has cost several thousand pounds to rectify but that the owner is not claiming for this at this time but is claiming for the rent outstanding.

Findings in Fact

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 29th April 2019.
2. The Rent due in terms of the lease is £475 per calendar month payable in advance.
3. The tenant has failed to make payment of all the rent due and arrears started accruing from 1st September 2019.
4. The tenant left the property on 11th August 2022 and returned the keys.
5. The rent outstanding at 11th August 2022 is £11,676.78.
6. There was no deposit taken.

• Reasons for Decision

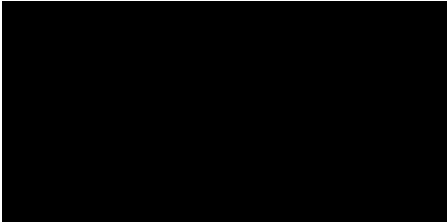
7. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £475 per month in rent.
8. The Respondent has failed to pay the full rent due. Arrears started accruing from 1st September 2019 and although the Respondent paid some rent from 1st April 2020 he has not paid the full rent due, and stopped paying any rent from 1st August 2021 to the date he left. The Respondent returned the keys on 11th August 2022 and rent has been calculated up to that date.
9. The Respondent was served notice of this application personally by sheriff officer on 8th December 2022 and has not made any written representations or attended this CMD. The Applicants provided a revised rent statement on 16th December confirming the final rent due to the end of the tenancy was £11676.78 and this has been copied to the Respondent so the Tribunal finds that the Applicant has successfully intimated a request to increase the sum due.
10. The Tribunal accepts the written evidence and verbal statements made by the Applicants representatives who the Tribunal found clear and credible in their evidence that the rent outstanding as of 11th August 2022 when the tenancy ended was £11,676.78. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

• Decision

An order for payment of the sum of £11,676.78 is granted.

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

Date

10th January 2023