



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/20/0056

Re: Property at 131 Whinhall Avenue, Airdrie, North Lanarkshire, ML6 0HB (“the Property”)

Parties:

Mr Lendrick Gillies, 132 St Johns Road, Edinburgh, EH12 8AX (“the Applicant”)

Miss Kimberley Bowman, formerly of 131 Whinhall Avenue, Airdrie, North Lanarkshire, ML6 0HB and whose present whereabouts are unknown (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 Rules”) seeking an order for payment of the sum of £2490 to the Applicant in relation to rent arrears due by the Respondent.
2. The application contained:-
 - a copy of the tenancy agreement, and
 - rental statement

3. Mr Pontin from Messrs Gilson Gray Lettings appeared on behalf of the Applicant. There was no appearance by the Respondent. The Respondent had been notified of today's case management discussion at her last known address. I was prepared to proceed with today's case management discussion.
4. This case had been continued from a previous case management discussion which had taken place on 11 March 2020. At that case management discussion the legal member had allowed the Applicant to amend the sum sought to £3750. The case had been continued in order that notification of this amended sum could be made upon the Respondent. The case has been continued to 16 April 2020, but then subsequently postponed to today's date due to the outbreak of the Covid-19 virus.

Hearing

5. The Applicants' agent advised that he believed that the Respondent was no longer living in the property. There had been some contact with her in May but it had petered out thereafter. He advised that the rent arrears were still outstanding. He advised that the last payment made by the Respondent for rent had been on 27 September 2019. There had been no further payments since that date. Further, the arrears had in fact now increased from the sum of £3750. He advised that the Respondent had been contacted about the arrears. She was aware that they were owing. She had agreed to make repayment of them, by instalments of £150 from May 2020. No payments had been forthcoming.
6. The Applicants' agent advised that the rent arrears were still outstanding as at today's date and an order for payment was sought.

Findings in Fact

7. The Tribunal found the following facts to be established:
8. A tenancy agreement was entered into between the Applicant and the Respondent for the property and existed between the parties. It commenced on 11 May 2019.
9. Clause 8 in the tenancy agreement provided that monthly rent was £450 and the rent payment date was the 11th of each month.
10. The rental statement showed amounts due each month, amounts received, and rent outstanding and showed arrears as at 11 December 2019.
11. That there been no payments to rent since 27 September 2019.
12. That rent arrears totalled at least £3750.

Reasons for Decision

13. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies.
14. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
15. There was no response or appearance from the Respondent but she had been notified of today's hearing at her last known address.
16. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, the Respondent had failed to do so. There was submitted a rental statement showing the arrears due and additional information provided the Applicant's agent at the first case management discussion and today, was that the arrears had increased and that there had been no further payments towards the rent or rent arrears.
17. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued for.

Decision

I grant an order in favour of the Applicant for THREE THOUSAND SEVEN HUNDRED AND FIFTY POUNDS (£3,750) STERLING against the Respondent.

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.

Melanie Barbour

14.7.2020

Legal Member/Chair

Date

