



Decision with Statement of Reasons of 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 Regulations”)

Chamber Ref: FTS/HPC/CV/20/0466

Re: Property at 21 Cairngorm Crescent, Wishaw, ML2 7PS (“the Property”)

Parties:

Mr Kenneth Corcoran, 35 Drumnessie Court, Glasgow, G68 9HG (“the Applicant”)

Mr Thomas Campbell, Ms Kerri Hendrickson, 21 Cairngorm Crescent, Wishaw, ML2 7PS; 21 Cairngorm Crescent, Wishaw, ML2 7PS (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order in favour of the Applicant against the Respondent for payment of the sum of £2,875 should be made.

Background

1. By application submitted on 11 February 2020, the Applicant sought a payment order of £1,685 against the Respondent in respect of rent arrears incurred in respect of the Property in terms of Rule 111 of the Regulations.
2. Supporting documentation was submitted in respect of the application, including a Rent Statement.
3. On 24 February 2020, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.

4. On 4 March 2020, a copy of the Application and supporting documentation was served on each of the Respondents by Sheriff Officer, together with intimation of the date, time and location set for a Case Management Discussion. Written representations were to be lodged by 24 March 2020. No written representations were submitted by the Respondents.
5. On 13 March 2020, the Applicant's representative lodged an application to amend the application in terms of Rule 14A of the Regulations and attached copies of letters to both Respondents dated 13 March 2020 stating that these letters were being sent by both first class post and recorded delivery to the Respondents. By letter dated 16 March 2020, the Tribunal Administration also intimated the application to amend to the Respondents. No response was received from the Respondents. The application to amend sought to increase the sum sought from the Respondents from £1,685 to £2,875.
6. The case was due to call for a Case Management Discussion at Glasgow Tribunal Centre on 6 April 2020 at 2pm. Due to the COVID-19 outbreak, this was postponed and re-scheduled to take place by telephone conference call on 13 July 2020 at 2pm.

Case Management Discussion

7. On 13 July 2020, at 2pm, the Applicant's representative, Ms Kirsty Morrison, of TC Young Solicitors had dialled in to the telephone conference Case Management Discussion. The Legal Member delayed the start of the Case Management Discussion until 2.10pm to see if the Respondents joined but they did not.
8. After introductions and introductory remarks by the Legal Member, Ms Morrison was asked to address the application. Ms Morrison confirmed that the Applicant is the owner of the Property and that he had entered into a Private Residential Tenancy with the Respondents which had commenced on 29 March 2020. The rental due in terms of the tenancy was £595 per calendar month. The Respondents had fallen into arrears with rent, such that the amount of arrears outstanding as at today's date is £4,065. When the application was submitted, the amount outstanding had been £1,685. Reference was made to the Rental Statement submitted with the application. Ms Morrison confirmed that her firm had subsequently submitted an application to amend the sum sued for to £2,875 on 13 March 2020, as the rental arrears had increased to that figure by then. She explained that the application to amend had also been intimated to the Respondents on that date, all in terms of Rule 14A of the Regulations. Ms Morrison confirmed that the increased sum of £2,875 is the amount sought today in terms of the amended application for payment.
9. The Legal Member asked if there had been any further payments received from the Respondents in terms of rent since the last payment shown in the Rent Account in December 2019. Ms Morrison confirmed that one payment had been received of £595 on 29 June 2020, which represented a full monthly rental payment but that still left the arrears balance as at today's date of

£4,065. Ms Morrison further advised that there had been no contact from the Respondents to the Applicant nor the Applicant's representative since this application was made to the Tribunal, nor any explanation provided for the non-payment. The Respondents' personal and financial circumstances were not known to her. As far as she and her client are aware, the Respondents are still living in the Property.

Findings in Fact

10. The Applicant is the owner and landlord of the Property.
11. The Respondents are the tenants of the Property by virtue of a Private Residential Tenancy dated and commencing on 29 March 2019.
12. The rent in terms of the tenancy is £595 per calendar month.
13. The Respondents initially made their due rental payments but the payments then became erratic and fell into arrears. The amount owing when this application was submitted to the Tribunal was £1,685. When the Applicant submitted an application to increase the sum claimed, the arrears had risen to £2,875 and now amount to £4,065.
14. One payment has been made by the Respondents since this application was made of £595 on 26 June 2020.
15. The Applicant has not been contacted by the Respondents and no explanation has been given for the non-payment of rent.
16. The Respondents have not submitted any written representations, nor sought time to pay, in respect of this application. The Respondents did not attend the Case Management Discussion.
17. The sum sought by the Applicant of £2,875 in respect of rent arrears incurred during the tenancy has not been paid by the Respondents.

Reasons for Decision

18. The Respondent did not submit any written representations to the Tribunal and did not attend the Case Management Discussion, having been properly and timeously notified of same.
19. The Legal Member was satisfied that the Applicant's application to amend the application to increase the amount of the payment claimed to £2,875 had been made timeously and otherwise in accordance with Rule 14A of the Regulations. The Respondents had received proper and timeous intimation of same and had not lodged any objection to it. The Legal Member was accordingly satisfied that the amendment should be made.

20. The Legal Member was further satisfied from the information contained in the application and supporting documentation, together with the oral submissions made by the Applicant's Representative at the Case Management Discussion that the sum claimed in unpaid rent of £2,875 is due and owing by the Respondents.

21. The Legal Member concluded that there being no information to the contrary from the Respondents that the matter did not require to go to an evidential hearing and that an order for payment of the sum of £2,875 should be made.

Decision

22. The Legal Member accordingly determines that an order for payment by the Respondents of the sum of £2,875 should be made in favour of the Applicant.

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.

Nicola Weir

Legal Member/Chair

**13 July 2020
Date**