



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/19/1778

Re: Property at 7 Brackenrig Crescent, Glasgow, G76 0HF (“the Property”)

Parties:

Ms Nicola Moody, 26 Maple Mews, London, SW16 2AL (“the Applicant”)

Mr David MacFarlane formerly residing at 7 Brackenrig Crescent, Glasgow, G76 0HF and now whereabouts unknown (“the Respondent”)

Tribunal Member:

Lesley Ward (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 by the respondent to the applicant of the sum of eight thousand six hundred and sixty one pounds thirty seven pence (£8661.37) be made.

This is the third case management discussion ‘CMD’ in connection with an application to recover rent arrears in terms of s71(1) of the Private Housing (Tenancies)(Scotland) Act 2016. A first CMD on 23 September 2019 was adjourned as neither party attended. Service had been effected on the respondent personally by sheriff officer. At the second CMD on 30 October 2019 the applicant’s representative attended and sought to lodge an amended rent statement with arrears of £8661.37. As no amendment in terms of rule 14A had been made the tribunal adjourned the CMD and made directions. The papers for the CMD on 30 October 2019 had been served by sheriff officer by depositing. The sheriff officer’s report noted that neighbours stated the property had been empty for several weeks and the neighbours thought he may be in prison. The tribunal therefore made a direction on

30 October 2019 for the amended sum sought and the rent statement and details of the adjourned CMD to be served on the respondent by advertisement. The tribunal today had sight of the execution of service by the clerk dated 17 December 2019 confirming that service by advertisement had been carried out.

Preliminary matter

Miss Caitlin Haddow of Countrywide Letting Agents Ltd attended the CMD on behalf of the applicant.

Miss Haddow was able to clarify why the rent statement referred to the sum of £867.95 for April 2019 and £180.82 in May 2019. Both sums related to an apportionment of rent which was made on the understanding that the respondent was moving out of the property and each time he failed to do so.

The tribunal noted that the private residential tenancy agreement lodged was in the name of 'Beryl Moody' but the application was in the name of 'Nicola Moody'. Miss Haddow was unable to clarify if Nicola and Beryl were the same person or not. The tribunal adjourned for a short time to enable her to clarify matters.

After adjourning the tribunal reconvened and Miss Haddow was able to confirm that the owner and former landlord of the property, Ms Beryl Haddow died on 25 September 2018 and her daughter Ms Nicola Haddow (the applicant) was the sole beneficiary on her estate. She produced a copy of the death certificate, will and letter from solicitors instructed in the winding up of the estate. She also produced a copy of a letter sent to the tenant on 1 November 2018 confirming that Nicola Moody is the new landlord for the property.

Discussion

The tribunal had before it the following copy documents:

1. Application dated 10 June 2019 and received by the tribunal on that date.
2. Private residential tenancy agreement dated 30 May 2019.
3. Rent statement with arrears as at 27 May 2019.
4. Rent statement with arrears as at 25 September 2019.

Miss Haddow was seeking an order for the sum of £8661.37.

Findings in fact and law

1. Ms Nicola Moody is the owner of the property and acquired her title upon the death of Mrs Beryl Moody who made her the sole beneficiary of her estate.

2. Her deceased mother entered into a private residential tenancy with the respondent on 30 May 2018 for let of the property with an agreed rent of £1100 per month.
3. Ms Nicola Moody gave the respondent notice that she was taking over as landlord on 1 November 2018.
4. Rent arrears accrued from 30 January 2019 until 25 September 2019 in the sum of £8661.37. This sum remains outstanding.

Reasons

This is an undefended application to recover rent arrears. The tribunal was satisfied that appropriate notice on the respondent had been carried out on the respondent and that the procedure had been fair. The tribunal was satisfied that the applicant has acquired title to the property and that the sum of £8661.37 is outstanding in respect of rent arrears from 30 January 2019 until 25 September 2019. The tribunal accordingly granted an order for payment of this sum.

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.

Lesley Ward

17 December 2019

Lesley A Ward Legal Member

Date