

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) Act 2016

Chamber Ref: FTS/HPC/CV/22/1428

Re: Property at 12 4B Peddie Street, Dundee, DD1 5LS (“the Property”)

Parties:

Mrs Nazia Iqbal, 4 Dunmore Gardens, Dundee, DD2 1PP (“the Applicant”)

Miss Amy Louise Margaret Tares, previously residing at 12 4B Peddie Street, Dundee, DD1 5LS and whose present whereabouts are unknown (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of THREE THOUSAND SIX HUNDRED POUNDS (£3600) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an application dated 13 May 2022 made by the Applicant for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties signed and dated 10 July 2020 and a rent statement to September 2021 showing arrears of £3600.

3. On 11 May 2022 the Applicant made an application to serve the application by advertisement under Rule 6A of the Regulations. This was accompanied by a letter dated 6 December 2021 from Killean and Company advising that they had been unable to trace the Respondent's whereabouts.
4. On 31 May 2022 the Tribunal accepted the application under Rule 9 of the Regulations.
5. The application was thereafter served on the Respondent by advertisement in terms of Rule 6A of the Rules. A copy of the Execution of Service was received by the Tribunal administration and placed before the Tribunal.

Case Management Discussion

6. The Tribunal proceeded with a Case Management Discussion on 10 August 2022 by way of teleconference. The Applicant appeared on her own behalf. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in his absence.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties signed and dated 10 July 2020 and a rent statement to September 2021 showing arrears of £3600. The Tribunal considered these documents.
8. Mrs Iqbal explained that the Respondent had paid rent the first few months after moving in. The Tribunal noted that in terms of Clause 7 of the tenancy agreement the Respondent had agreed to pay rent of £450 per month. After that the Respondent fell into arrears. The Applicant phoned her on numerous occasions. The Respondent was rude to the Applicant and advised she had no intention of paying the rent. The Applicant explained she felt very frustrated by that. She sent numerous emails and texts to the Respondent but to no avail. She regained possession of the Property in September 2021 at which stage the arrears were £3600. The Tribunal noted the rent statement lodged showing how arrears had accrued and noted the last payment to account was in January 2021. The Applicant explained that she had received the full deposit back of £450, but that sum had been used to repair damage to the Property left by the Respondent.

Findings in Fact

9. The Applicant and the Respondent agreed by way of Clause 7 of a Private Residential Tenancy Agreement dated 10 July 2020 in relation to the Property that the Respondent would pay the Applicant a monthly rent of £450.

10. The Respondent fell into arrears of rent. She stopped paying rent in January 2021. The Applicant took possession of the Property in September 2021. The arrears at termination were £3600.

Reasons for Decision

11. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mrs Iqbal

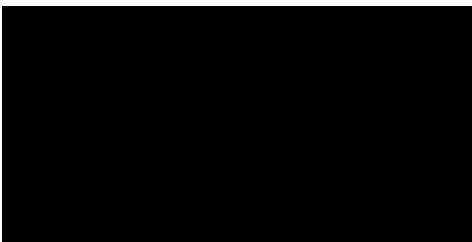
12. The Tribunal noted the terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to September 2021 as being £3600. The Tribunal accepted the submissions of Mrs Iqbal as being credible. The Respondent had agreed to pay rent under the tenancy agreement. Mrs Iqbal had produced evidence of persistent non-payment of rent. The Tribunal was satisfied on the basis of the documents, together with Mrs Iqbal's submissions that the order for payment in favour of the Applicant be granted.

Decision

13. The Tribunal granted an order for payment of £3600.

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.



10 August 2022

Legal Member

Date