



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 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/22/3238

Re: Property at 7 Barrington Gardens, Beith, KA15 2BA (“the Property”)

Parties:

Mr Nigel Siddall, Mrs Fiona Siddall, 14 Ludwig Van Beethoven, Porta D'Orba, Alicante, 03790, Spain (“the Applicants”)

Mr Reg Tyler, Mrs Lesley Ann Tyler, 7 Barrington Gardens, Beith, KA15 2BA; 7 Barrington Gardens, Beith, KA15 2BA (“the Respondents”)

Tribunal Members:

Alastair Houston (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £3850.00 be made in favour of the Applicants.

1. Background

- 1.1 This is an application for a payment order in respect of a property let on a private residential tenancy agreement. The application was accompanied by, amongst other things, copies of a written tenancy agreement and a rent statement.
- 1.2 A conjoined application (reference FTS/HPC/EV/22/3892) was also being considered by the Tribunal. The Applicant had sent further documentation to the Tribunal in advance of the Case Management Discussion. This included a rent statement, demonstrating allegedly unpaid rent of £4550.00 as at 3 April 2023. An email had been received from the First Respondent advising that a payment of £700.00 had been made on 3 April 2023 and payment of the arrears would be made at the rate of £50.00 each month going forward.

2. The Case Management Discussion

- 1.1 The Case Management Discussion took place on 12 April 2023 by teleconference. The Applicant appeared personally. The Respondents were neither present nor represented.
- 1.2 The Applicant confirmed that the applications were insisted upon. The Tribunal noted that intimation of the applications and the Case Management Discussion had been made to the Respondents. Accordingly, the Tribunal considered it appropriate to proceed in their absence as permitted by Rule 29 of the Chamber Rules.
- 1.3 The Tribunal first clarified the position regarding the First Applicant's standing in terms of the application. The Applicant confirmed that his wife, Fiona Siddall, was the heritable proprietor of the property. She was the landlord and he was acting as her agent, having entered into the tenancy agreement on her behalf. Payment of rent had been made on an account held jointly by the Applicant and his wife.
- 1.4 The Applicant advised that arrears of rent had accrued following service of a notice to leave in July 2022. The tenancy agreement between the parties had commenced on 29 December 2020. Payment of rent was due on the 1st day of each calendar month with the first rental payment having fallen due on 1 January 2021. The rental due was £650.00 per calendar month. The arrears as at the date of the Case Management Discussion were £3850.00, a payment of £700.00 having been received from the Respondents shortly after the additional information having been sent to the Tribunal. A payment order for that sum was sought.

3. Reasons For Decision

- 3.1 The Tribunal firstly considered who ought to be considered the landlord for the purpose of any order issued. Given what was said at the Case Management Discussion and that she was the proprietor of the property, the Tribunal considered that Mrs Fiona Siddall ought to be amended in as the Second Applicant, with any order issued in both of their names. Mr Nigel Siddall was acting as her authorised agent.
- 3.2 The Tribunal considered that the information submitted on 3 April 2023 did not constitute a new issue, rather, it was simply an amendment to the written representations permitted by Rule 13. The Tribunal therefore allowed the amount sought to be amended. The rent due in respect of the property was £650.00 per calendar month. This fell due on the 1st of each month. There was no material before the Tribunal as to why the sum sought was not lawfully due and granted an order for payment of £3850.00.

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.

Alastair Houston

Legal Member/Chair

Date 12 April 2023