



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/22/2519

Re: Property at 4 Holly Grove, Bellshill, ML4 1EG (“the Property”)

Parties:

Stoneville Investments Ltd, 62 Main Street, Oakham, Rutland, LE15 9LT (“the Applicant”)

Ms Briany Renton, Mr Dean Renton, 6 Spring Lane, Caldercruix, Airdrie, ML6 7QE; 6 Spring Lane, Caldercruix, Airdrie, ML6 7QE (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondents in favour of the Applicant in the sum of £1,650.

Background

1. The Applicant submitted an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017. The Applicant sought an order for payment in respect of rent arrears said to have been incurred by the Respondents.
2. By decision dated 14 September 2022, a Convenor of the Housing and Property Chamber, having delegated power for the purpose, referred the application under Rule 9 of the Rules to a case management discussion (“CMD”).
3. The Notice of Acceptance was intimated to the Applicant’s representative on 21 September 2022. Letters were issued on 19 December 2022 informing both parties that a case CMD had been assigned for 31 January 2023, which was to take place by conference call. In that letter, the parties were also told that they

required to take part in the discussion and were informed that the Tribunal could make a decision on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondent was invited to make written representations by 9 January 2023.

4. On 6 January 2023, the Tribunal received written representations from the Respondents.
5. On 12 January 2023, the Tribunal received further written representations from the Applicant's representative.
6. On 26 January 2023, the Tribunal granted the Respondents' application to postpone the CMD. The Tribunal fixed a new CMD for 30 March 2023 and intimated the details to the parties by letter of 24 February 2023.

The case management discussion

7. The CMD took place by conference call. The Applicant was represented by Miss McCaughey and both Respondents joined the conference call. This case called alongside a related case which proceeds under chamber reference FTS/HPC/CV/22/3556. The Applicant's representative explained that since the applications were submitted, the Applicant has received the Respondents' deposit of £550 from an approved scheme and that sum had been applied to rent arrears. In addition, the Applicant has adjusted the rent statement in light of the Respondents' written submissions. Consequently, the rent arrears outstanding have been reduced to £1,650. The Tribunal enquired whether the application which proceeds under chamber reference FTS/HPC/CV/22/3556 is to be treated as withdrawn, since the present application is for a payment order in the sum of £1,650. The Applicant's representative was unsure of the different chamber references, but confirmed that the Applicant seeks an order in the sum of £1,650.
8. The Tribunal observed that in the email from the Second Respondent dated 6 January 2023, a photograph of a letter was attached which contained handwritten notes. Those handwritten notes appeared to indicate that the Respondents accepted that the sum of £1,650 was due. The Respondents did not dispute that rent arrears of £1,650 have accrued. The Respondents' position was that they had spent money improving the property over the winter months on the basis that they thought they would be living there for some time. The Respondents stopped paying rent following receipt of a Notice to Leave served by the Applicant. The reason the Respondents withheld rent from that point onwards was to facilitate them moving to another property and to reflect the fact that they had spent money on the property. The Second Respondent explained that during the tenancy, repairs were required to the boiler in the property and there was a period of a week when there was no running water in the kitchen as a result of work being carried out in the kitchen. The Second

Respondent indicated that these were instances that he considered would have justified rent being withheld.

Findings in Fact

9. The parties entered into a private residential tenancy which commenced 10 October 2018.
10. The Respondents were obliged to pay rent at the rate of £550 per month, in advance.
11. The Respondents owe the Applicant rent arrears of £1,650.

Reason for Decision

12. The Tribunal proceeded on the basis of the documents lodged and the submissions made at the CMD. The Respondents' written submissions indicated that the sum sought was due. During the CMD, the Respondents referred to repairs which were required during the currency of the tenancy. The Respondents did not withhold payment of rent in relation to any of those repairs. The Respondents decided not to pay rent after they received service of a Notice to Leave. The reason given was to facilitate the Respondents moving to another property and to reimburse them for sums expended on the property. There was no agreement between the parties that the Applicant would reimburse the Respondents for any sums expended on the property. There was no specification given of how much the Respondents spent on the property. The Tribunal was not satisfied that the Respondents were entitled to withhold payment of rent. In light of the admission by the Respondents that the rent was contractually due, the Tribunal was satisfied that the Respondents owe the Applicant £1,650 and accordingly an order for payment was granted.

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.

N. Irvine

Nicola Irvine

Legal Member/Chair

30 March 2023

Date

