



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/19/0938

Re: Property at 61 Ford Avenue, Dreghorn, Irvine, KA11 4BN (“the Property”)

Parties:

Mr Steven Easton, 2 Newfield Drive, Dundonald, Ayrshire, KA2 9EW (“the Applicant”)

Ms Vicki Nimmo, 61 Ford Avenue, Dreghorn, Irvine, KA11 4BN (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application was made to 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 2017 Rules”) seeking an order for payment of the sum of £3170 to the Applicant in relation to rent arrears due by the Respondent.
2. The application contained:-
 - a copy of the tenancy agreement,
 - a copy of the Respondents payment history
 - an updated rental statement

3. The Applicants' representative Mr Easton and Ms Thoms from Steven Easton Limited appeared on behalf of the Applicant. There was no appearance by the Respondent.
4. Notice of the Hearing had been served on the Respondent by sheriff officers on 8 April 2019. As I was satisfied that the Respondent had been served with notice of today's hearing I was therefore prepared to proceed with today's hearing in her absence. I was also aware that she had contacted the Tribunal office this morning advising that she would not be attending today's hearing and she was prepared for it to proceed in her absence.

Hearing

5. The Applicants' agent referred me to the papers which had been lodged in support of the application, including the tenancy agreement, and rent account statement. This application related to unpaid rent due in terms of that agreement. The Respondent had failed to make regular rental payments since April 2018. The Applicant had attempted to get her to pay her rent and arrears, however those attempts were not successful and given the level of arrears the Applicant had served notice to leave on the Respondent and now sought an order for payment of the rent arrears. The Applicant's agent provided an updated rent account and advised that the current level of arrears were in £4020. The last rental payment received was on around 28 September 2018.
6. The Applicant referred to an earlier email submitted from the Respondent regarding the condition of the property. The Applicant advised that the first they had heard about concerns over the condition of it had been after they have served the notice to leave upon her. He advised that he had addressed the repairs issues raised after they have been brought to his attention. He also advised that he did not consider that those issues were significant.
7. The Applicants' agent advised that the rent arrears were still outstanding as at today's date. There had been no further payments towards the rent arrears by the Respondent other than as set out in the rental statement lodged by the application. Arrears of £4020 were due.

Findings in Fact

8. The Tribunal found the following facts to be established:
9. A tenancy agreement was entered into between the Applicant and the Respondent for the property and existed between the parties. It was entered into on 30 March 2018.
10. Clause 7 in the tenancy agreement provided that monthly rent was £425 and the rent payment date was 28th of each month. Clause 7 of the tenancy agreement provided that monthly rent was due in advance.

11. That the rental statement showed amounts due each month, amounts received, and rent outstanding.
12. That the rental statement showed total rent arrears outstanding as at 28 February 2019 being £3170.
13. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

Reasons for Decision

14. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies.
15. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
16. There was no response or appearance from the Respondent but she had been notified of today's hearing.
17. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has failed to do so. There was submitted a rental statement showing the arrears due and additional information provided today by the Applicant's agent was that there had been no further payments towards the rent arrears and this was therefore the sum still outstanding.
18. While noting the issues raised by the Respondent regarding repairs, the Respondent did not appear today and did not provide information as to what relevance she considered any repairs to the property had on her responsibility to pay rent. I have not therefore taken this matter into consideration when coming to my decision.
19. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sued for.

Decision

I grant an order in favour of the Applicant for THREE THOUSAND ONE HUNDRED AND SEVENTY POUNDS (£3,170.00) STERLING against the Respondent.

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.

Ms Melanie Barbour

29. 4. 19

Legal Member/Chair

Date