



Decision with Statement of Reasons of 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 Rules”)

Chamber Ref: FTS/HPC/CV/19/0382

Re: Property at 65 March Road, Edinburgh, EH4 3SU (“the Property”)

Parties:

Mrs Maureen O’Gorman, Cregboy, Claregalway, Co Galway, Ireland (“the Applicant”)

Mr Michael Hughes, 65 March Road, Edinburgh, EH4 3SU (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of FIVE THOUSAND EIGHT HUNDRED AND FIFTY POUNDS (£5,850) STERLING

- **Background**

An application was submitted to the Tribunal dated 4 February 2019 seeking payment from the Applicant in the sum of £6,500 in respect of rent arrears arising from a Private Residential Tenancy Agreement. That sum was subsequently amended by the Applicant to the increased sum of £9,100. A Case Management Discussion (“CMD”) took place on 4 April 2019 at which the parties were present. The Applicant was represented by Mrs Mullen of TC Young. The Respondent was personally present.

At the CMD the Respondent had admitted that 50% of the outstanding arrears were due, namely £4,550. The Respondent's position was that the remaining 50% had been withheld due to alleged defects in the Property which the Applicant had failed or refused to repair. This was denied by the Applicant. A Hearing was fixed to hear evidence in this regard. A Direction was issued to the Respondent directing him to lodge a note listing the alleged defects in the Property upon which he intended to rely in support of his contention that there had been disrepair in the property. Said note was to be lodged by no later than close of business on 19 April 2019. No such note was lodged by the Respondent with the Tribunal in advance of the Hearing.

- The Hearing

The Hearing took place on 3 June 2019. The Respondent was personally present. The Applicant was present and represented by Mrs Mullen of TC Young.

As a preliminary issue, the Tribunal sought to clarify with the Respondent why no note had been issued to comply with the Direction and if the Respondent intended to continue with the proposed defence of alleged disrepair. The Respondent advised that he had not noticed the date requiring the note to be lodged and had not done so. He still wished to rely on the position that there had been disrepair in the property. Mrs Mullen for the Applicant sought to oppose the Respondent being entitled to rely on that position due to his failure to comply with the Direction.

The Tribunal took a short adjournment to consider his point. Upon re-convening, the Tribunal held that the Respondent would be allowed to rely on his previously intimated position that he considered there to be disrepair in the property and that rent had been withheld. However, the Respondent would only be entitled to rely on documents previously lodged by him and which the Applicant had had notice of, in the interest of fairness to the Applicant. The Respondent accepted this.

Mrs Mullen advised the Tribunal that no further rent had been paid since the CMD and the arrears now stood at £11,700. She sought a payment order restricted to the sum of £5,850, to reflect the Respondent's previous position that he was only due to pay 50% of the arrears. The Respondent accepted that the sum of £5,850 was due. The Respondent did not seek to oppose the order for payment being granted in this sum.

Accordingly on the basis of the Respondent's admission that the sum of £5,850 fell due, the Tribunal granted an order granted an order against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

Sum of FIVE THOUSAND EIGHT HUNDRED AND FIFTY POUNDS (£5,850)
STERLING

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.

F.Watson

Legal Member/Chair

2/6/19

Date