

Housing and Property Chamber
First-tier Tribunal for Scotland



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/CV/19/1381

Re: Property at 52 Glebe Street, The Village, East Kilbride, G74 4LX (“the Property”)

Parties:

Ms Ann Keenan, 5 Kidsneuk Gardens, Irvine, Ayrshire, KA12 8SX (“the Applicant”)

Ms Suzanne Tarahoui, 52 Glebe Street, The Village, East Kilbride, G74 4LX (“the Respondent”)

Tribunal Members:

Virgil Crawford (Legal Member)

Decision

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

BACKGROUND

1. By lease dated 14 November 2014 the Applicant let the Property to the Respondent;
2. The rent payable was £450.00 per calendar month;
3. The Respondent fell in to arrears of rent. As at 30 December 2017 the arrears amounted to £4,050.00. An arrangement was entered in to that the Respondent would reduce the arrears by increasing her monthly payments to £500.00 per calendar month, thereby reducing the arrears by £50.00 per month. That arrangement persisted until October 2018. Thereafter the Respondent failed to make rent payments due in November and December 2018 and January 2019;
4. As at 31 January 2019 the arrears of rent amounted to £4,950.00;
5. The Respondent submitted an Application for a Time to Pay Direction in which she proposed payment of the arrears at £5.00 per fortnight;

THE CASE MANAGEMENT DISCUSSION

6. The Applicant attended the Case Management Discussion. The Respondent attended with a supporter, Miss Lorraine Martin;
7. The Respondent accepted that there were arrears and that as at 31 January 2019 these amounted to £4,950.00;
8. The Respondent addressed the Tribunal in relation to various defects in the Property and repairs requirements which had arisen since the commencement of the tenancy. She provided a handwritten note to the Tribunal detailing a number of issues covering the period from November 2014 until February 2019. This also detailed what the Respondent considered to be "outstanding repairs";
9. The Respondent's note referred to the following past problems:-
 - a) issues with the boiler in the Property,
 - b) the absence, initially, of equipment to maintain the garden,
 - c) the fact the garden was not level,
 - d) water damage caused by an upstairs neighbour,
 - e) issues in relation to a smoke alarm and carbon monoxide detector,
 - f) dampness,
 - g) the garden shed being blown down in bad weather,
 - h) problems with the toilet cistern / overflow,
 - i) the door on the washing machine being broken,
 - j) problems with a kitchen window,
 - k) further problems with the boiler,
 - l) defects in kitchen furniture / units,
 - m) hot water tap in kitchen broken,
12. The Respondent's note referred to the following outstanding problems:-
 - a) dampness in bedrooms,
 - b) broken kitchen window,
 - c) no hot water in kitchen,
 - d) unable to turn off cold water,
 - e) holes in kitchen wall,
 - f) broken drawers,
 - g) dry rot,
 - h) garden unfinished,
 - i) garden shed damaged,
13. The Respondent advised that she had told the Applicant's husband of the most recent problem with the boiler. She advised that other past problems had been reported to the Applicant as they had been addressed, but the inference was that they were not always addressed swiftly or to a satisfactory standard;
14. The Respondent accepted that she had never advised the Applicant that she was withholding rent due to any defects requiring attention. She accepted that when she did withhold rent payments they were never kept aside to enable payment once any repairs had been attended to. She admitted that rent money was used for her living costs due to the constrained financial position she was in;
15. The Respondent accepted that she had never made an application to the Tribunal for a repairing standards order;

16. In the circumstances, given there was no dispute that the rent arrears amounted to £4,950.00 as at 31 January 2019, the only issue for the Tribunal was whether there should be any reduction or abatement of that amount due to the matters raised by the Respondent;
17. Given the failure of the Respondent to advise the Applicant, at any point, that rent was being withheld due to alleged defects within the Property, together with the fact that rental payments which were withheld were never kept aside for payment once repairs had been effected, the Tribunal advised that it was not willing to consider any of the issues raised as justifying any reduction or abatement of the rent due;
18. Similarly, the fact that the Respondent had failed to apply for a repairing standards order, which, of course, could have resulted in an order for reduced rental payments pending repairs being carried out, assisted the Tribunal in concluding that no reduction of rent at this stage was appropriate;
19. The Respondent requested the Tribunal to have regard to video recordings she had of dampness and defects at the Property. The Tribunal declined to do so. For the reasons stated, the Tribunal did not consider these matters justified any reduction nor abatement of rent due. In the circumstances, viewing recordings of dampness or other defects at the Property would not have assisted the Tribunal further;
20. A Time to Pay Direction was discussed. The Respondent confirmed she was willing to pay arrears at £5.00 per fortnight. The Applicant was not willing to accept such a proposal. Considering that payment of £4,950 at £5.00 per fortnight would take in excess of 38 years to repay the sums due, the Tribunal had no hesitation in concluding that such a proposal was not reasonable;

FINDINGS IN FACT

21. The Tribunal found the following facts to be admitted or proved:-
 - i. By lease dated 14 November 2014 the Applicant let the Property to the Respondent;
 - ii. The rent payable was £450.00 per calendar month;
 - iii. The Respondent fell in to arrears of rent. As at 30 December 2017 the arrears amounted to £4,050.00. An arrangement was entered in to that the Respondent would reduce the arrears by increasing her monthly payments to £500.00 per calendar month, thereby reducing the arrears by £50.00 per month. That arrangement persisted until October 2018. Thereafter the Respondent failed to make rent payments due in November and December 2018 and January 2019;
 - iv. As at 31 January 2019 the arrears of rent amounted to £4,950.00;

DECISION

The Tribunal granted an order against the Respondent for payment of the sum of FOUR THOUSAND NINE HUNDRED AND FIFTY POUNDS (£4,950.00) STERLING to the Applicant

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.

Virgil Crawford

28 June 2019

Legal Member/Chair

Date