



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/20/1796

Re: Property at 31 Barnton Place, Glenrothes, Fife, KY6 2PS (“the property”)

Parties:

Mr Eugene Lawrence Hogan and Mrs Margaret Hogan, residing together at 34 Liberton Drive, Glenrothes, Fife, KY6 3PB (“the applicants”)

Miss Louise Gourlay and Mr Dean Begg, both residing at 31 Barnton Place, Glenrothes, Fife, KY6 2PS (“the respondents”)

Tribunal Members:

David Preston (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make that an order for payment by the respondents, jointly and severally to the applicants of some of FOUR THOUSAND AND NINETY POUNDS (£4095).

Background

1. This was a Case Management Discussion (CMD) in respect of an application dated 25 August 2020 for payment arising from a Private Rented Tenancy Agreement between the applicant and the first named respondent dated 12 October 2019 wherein the second named respondent stands as guarantor for all payments of rent due to the applicants by the respondent.
2. On 14 October 2020 a CMD was convened by telephone in accordance with the provisions for dealing with business during the COVID-19 pandemic. The applicants attended by telephone. There was no appearance by on behalf of the respondents. The tribunal was provided with Sheriff Officers Certificates of Service on each respondent dated 16 September 2020 confirming that they had been served with the application and relevant paperwork together with intimation of the CMD.

3. The tribunal was satisfied that the respondents had been duly served with intimation of the CMD and they had voluntarily chosen to waive their right to attend or be represented at the CMD, and was accordingly content to proceed in their absence
4. The tribunal had before it:
 - i. Application dated 25 August 2020 with supporting documentation.
 - ii. Private Rented Tenancy Agreement dated 12 October 2019.
 - iii. Rent statement covering the period 12 October 2019 to 12 September 2020 showing arrears accrued of £3520.
 - iv. Various emails between the parties.
 - v. Email from applicants dated 30 September 2020 with enclosures, increasing some sought to £4095.
 - vi. Certificates of Service dated 16 September 2020
5. By Decision dated 4 September 2020 a Convener of HPC having delegated power for the purpose, referred the application under rule 9 of the Rules to the tribunal.
6. The convener explained the purpose of the CMD.

Discussion

7. Mrs Hogan referred to the rent statement lodged with the application which identified that the sum of £3510 had accrued until 12 August 2020 and also to her email dated 30 September 2020 in which she intimated that the arrears had increased by a further month's rent to the sum of £4095. The applicants email of 30 September 2020 had been copied over to the respondents on 14 October 2020, thereby intimating the increase to the respondents.

Reasons for Decision

8. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
9. In coming to its decision, the tribunal had regard to the representations and documents presented to it in support of the application. The respondents have made no representations or submissions to the tribunal.
10. The tribunal noted that the first named respondent, Louise Gourlay was named in the Private Rented Tenancy Agreement as Tenant and the second named respondent, Dean Begg was named in paragraph 40 as the Guarantor and as such is liable jointly and severally for all payments of rent, any other obligations under the Agreement, and any other payments due to the Landlord which the Tenant is required to pay under the Agreement.

11. The tribunal accordingly determined that an order for payment for the sum sought in the application, as amended by the email of 30 September 2020 should be granted against the respondents jointly and severally.

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.

David Preston

14 October 2020