



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/19/1891

Re: Property at 98 Shaw Street, Larkhall, ML9 1PD (“the Property”)

Parties:

Mr Ross Baxter, 5 Cot Castle Grove, Stonehouse, ML9 3RQ (“the Applicant”)

Mr James McAuley, Mrs Hannah McAuley, 98 Shaw Street, Larkhall, ML9 1PD (“the Respondents”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondents)

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 in relation to rent arrears arising from a private residential tenancy.
2. The application contained:-
 - a copy of the tenancy agreement,
 - rental statement
 - notice to leave
3. The Applicant appeared. There was no appearance by the Respondents.

4. Notice of the Hearing had been made on the Respondents by sheriff officers on 9th July 2019. As I was satisfied that the Respondents had received notice of today's hearing, I was prepared to proceed in their absence.

Hearing

5. The Applicant referred me to the papers which had been lodged in support of the application, including the tenancy agreement and rent statement.
6. He also referred me to his email to the Tribunal office on 11 July 2019 attaching an amended rent statement and asking that the sum sought be increased to £4400. I noted that this email and amended rent statement had been sent to the Respondents by the Tribunal Office. In terms of rule 14A I was prepared to amend the sum sued for to £4400.
7. The Applicant advised me that the Respondents had failed to make any rental payments since December 2019. The Applicant had gone to see them at the property in February 2019, to ask them to pay their rent, however they had failed to make any payments. They were aware of their obligation to pay rent and that there were rent arrears. He advised that there had been no further payments since December 2018. The Applicant advised that clause 8 of the tenancy agreement sets out that rent of £550 is due each month.

Findings in Fact

8. The Tribunal found the following facts to be established:
9. A tenancy agreement was entered into between the Applicants and the Respondents for the property and existed between the parties. It was entered into on 9 January 2018.
10. Clause 8 in the tenancy agreement provided that monthly rent was £550 and the rent payment date was 9th of each month. Clause 8 of the tenancy agreement provided that monthly rent was due in advance.
11. The rental statement showed amounts due each month, amounts received, and rent outstanding.
12. The rental statement showed total rent arrears outstanding as at August 2019 being £4400.
13. There had been no further payments towards the rent since December 2018.

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. There was no response or appearance from the Respondents but there had been service on them of today's hearing.
16. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondents have 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 since December 2018.
17. 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 Applicants for the sum of FOUR THOUSAND FOUR HUNDRED POUNDS (£4,400.00) STERLING against the Respondents.

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.

Melanie Barbour

Legal Member/Chair

13. 8. 19
Date