

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) under Section 71 of the Private Housing (Tenancies) (Scotland) 2016 Act

Chamber Ref: FTS/HPC/CV/18/2172

Re: Property at 12D Dalrymple Court, Kirkintilloch, Glasgow, G66 3AA ("the Property")

Parties:

Mr Alan Houston, 6 Keir Hardie Drive, Kilsyth, Glasgow, G65 0LQ ("the Applicant")

Mr Brian Todd, 12D Dalrymple Court, Kirkintilloch, Glasgow, G66 3AA ("the Respondent")

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

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

1. This is an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended ("the Procedure Rules"), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy Agreement of the Property by the Applicant to the Respondent dated 13 April 2018 and with a start date on the same day.
2. The application was dated 16 August 2018 and lodged with the Tribunal shortly thereafter. The order sought in the application was "to recover the rent outstanding at the time of the hearing payable to the Landlord". The application was accompanied with a rent statement showing arrears as at 16 August 2018 of £950, being unpaid rent of £475 over two consecutive months (for 13 July to 12 August 2018, and 13 August to 12 September 2018). The lease for the said tenancy also accompanied the application

and bore a rental payment of £475 per month, payable on the 13th of each month.

The Hearing

3. On 30 October 2018, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at Glasgow Tribunals Centre, I was addressed by Sharon Cooke, director of Coda Estates, the letting agent for the Applicant. There was no appearance by the Respondent but he had emailed the Tribunal the previous day stating that he was "unable to attend" and "will be vacating the property on the 16th of November". The email cited "financial restraints recently which has resulted in me having rent arrears". No dispute as the details of the application nor the order sought were contained in the email. The Applicant's agent confirmed that she had made contact with the Respondent recently and similarly been told that he was not going to attend the CMD and that he was intending to leave the Property on 16 November 2018.
4. In all the circumstances, I was satisfied that there was to be no appearance by the Respondent nor any attempt by him to make contact to provide submissions disputing the application. I was satisfied to consider the application in full at the CMD in the absence of the Respondent.
5. The Applicant's agent addressed me on the current level of rent arrears, stating that no rent had been paid for a further two months since the application was lodged, being the months commencing 13 September and 13 October 2018. As at the date of the Tribunal, the Respondent was said to be four months in arrears with total rent arrears of £1,900.
6. The application clearly sought rent arrears to the date of any hearing considering an order, and the Applicant's agent confirmed that she sought for an order for £1,900 made at the CMD.
7. The application did not seek interest on the arrears and the Applicant's agent confirmed no order for interest was being sought. The Applicant's agent confirmed no order in respect of expenses was sought.

Findings in Fact

8. On 13 April 2018, the Applicant let the Property to the Respondent by a Private Residential Tenancy with a start date of 13 April 2018 ("the Tenancy").
9. Under the Tenancy, the Respondent was to make payment of £475 per month in rent to the Applicant on the 13th of each month.
10. On 16 August 2018, the Applicant raised proceedings for an order for payment of the rent arrears outstanding at the time of any hearing in the application.

11. As of 16 August 2018, there was unpaid rent of £950 due by the Respondent to the Applicant in terms of the Tenancy being the rent due on 13 July and 13 August 2018.
12. On 30 October 2018, the Respondent was in rent arrears under the Tenancy of £1,900, being four months consecutive unpaid rent being the rent due on 13 July, 13 August, 13 September, and 13 October 2018.
13. The Respondent provided no evidence of payment of any part of the said unpaid rent of £1,900.

Reasons for Decision

14. The application was in terms of rule 111, being an order for civil proceedings in relation to a private residential tenancy. I was satisfied, on the basis of the application and supporting papers, and the oral submissions provided by the Applicant's agent at the CMD, that rent arrears of £1,900 were outstanding as at the date of the CMD, being four months of unpaid rent.
15. The application having clearly alerted the Respondent that the order sought was for all arrears due as at the date of any hearing considering an order. I was satisfied that the necessary level of evidence for such civil proceedings had been provided. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal and I was satisfied to make a decision at the CMD to award the sum now sought of £1,900.

Decision

16. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of the sum of £1,900 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.

Joel Conn

Legal Member/Chair

30 October 2018
Date