



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/3229

Re: Property at 8 Clearburn Road, Gorebridge, Midlothian, EH23 4AX (“the Property”)

Parties:

Mr Thomas Wilson, 13 Sutherland Drive, Kinross, KY13 8BJ (“the Applicant”)

Miss Nicola Harvie, 8 Clearburn Road, Gorebridge, Midlothian, EH23 4AX (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment to the Respondent in the sum of £2999.32

Background

1. By application dated 1 October 2019 the Applicant’s representatives Let Right Scotland Limited applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The applicant’s representatives submitted a copy of the Tenancy Agreement, a rent statement, copy bank statements copies of recent communications from the Respondent and a letter of authority from the Applicant.
2. By Notice of Acceptance dated 14 November 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion was assigned.

3. Intimation of the Case Management discussion was sent to the Applicant's representatives by post on 6 December 2019 and was given to the Respondent by Sheriff Officers on 10 December 2019.
4. The Applicant's representatives sent further written representations to the Tribunal by email on 17 and 30 December 2019 and 9 January 2020.

The Case Management Discussion

5. A Case Management Discussion was held at Riverside House Edinburgh on 13 January 2020. The Applicant attended along with his representative Miss Maxine Collins of Let Right Scotland Limited. The Respondent did not attend and was not represented. The Tribunal was satisfied that proper notice of the Case Management discussion had been given to the Respondent and determined to proceed in her absence in accordance with Rule 29 of The First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules")
6. Miss Collins confirmed that although the tenancy agreement referred to the rent being £808.00 every four weeks this was in fact an error and the rent was £808.00 per calendar month payable in arrears on the 8th day of each month. She said the Respondent had fallen into arrears almost from the beginning of the tenancy although the arrears had been cleared in March 2019 when benefit payments had been paid directly to the Applicant. Thereafter due to a change in the Respondent's circumstances direct payments had stopped and arrears had again built up. Miss Collins confirmed that the arrears at the date of the application had been the sum then claimed of £2999.32 and that as no further payments had been made the sum now due by the Respondent was £5423.32. The Applicant was seeking an order for the higher sum.
7. The Tribunal referred the Applicant and Miss Collins to the terms of Rule 14A in the 2017 Rules. Miss Collins confirmed she had not intimated her amendment to the Respondent as she had thought this would be done by the Tribunal.
8. The Tribunal indicated that although the Respondent might be aware of the correspondence sent to the Tribunal it did not appear that the sum claimed had been amended in terms of Rule 14A and therefore either the Applicant could obtain an order for the lower amount if the Tribunal was satisfied that such an order should be granted or the application could be continued to allow the sum claimed to be amended with intimation given to the Respondent. The Applicant decided to seek an order in the sum of £2999.32.

Findings in Fact

9. The parties entered into a Private Residential Tenancy that commenced on 4 May 2018 at a monthly rent of £808.00.
10. The Respondent has not paid any rent since 25 July 2019.

11. As at 1 October 2019 the Respondent had accrued rent arrears amounting to £2999.32.

Reasons for Decision

12. The Tribunal was satisfied from the documents produced and the oral submissions at the Case Management discussion that the parties entered into a Private Residential tenancy Agreement that commenced on 4 May 2018 at a monthly rent of £808.00 payable in arrears.

13. The Tribunal was also satisfied that the Respondent had failed to make any payment of rent since July 2019 and that she had accrued rent arrears as at the date of the application amounting to £2999.32. As the Respondent had not been given proper intimation of any further arrears and of any amendment to the sum claimed after that date the Tribunal was not prepared to grant an order for any increased amount. The Tribunal would have consented to a continuation of the Case Management Discussion to allow an amendment of the sum claimed but the Applicant wished the matter to be concluded and sought an order for payment in the sum of £2999.32. In all the circumstances the Tribunal was satisfied that such an order was justified.

Decision

14. The Tribunal finds the Applicant entitled to an order for payment by the Respondent in the sum of £2999.32.

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.

Graham Hardie

Legal Member/Chair

Date

13 January 2020