



Order for Payment issued by the First-tier Tribunal for Scotland

Reference number: FTS/HPC/PR/19/1398

Date Order was granted 7 August 2019

Parties:

Mr Paul Mosson, 1 Tweedie Place, North Berwick, EH39 5QA ("the Applicant")

Mrs Melanie Witherington, C/O Coulters Lettings, 32 North West Circus Place,
Edinburgh, EH3 6TP ("the Respondent")

Tribunal Member:

Karen Moore (Legal Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondent for payment of the undernoted sum to the Applicant:

Sum of TWO THOUSAND THREE HUNDRED AND TWENTY FIVE POUNDS
(£2,325.00) STERLING

This Order is warrant for all lawful execution thereon.

Date: 7 August 2019

Legal Member: *Karen Moore*

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under in terms of Rule 103 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/PR/19/1398

Re: Property at Flat 6, 12 Wallace Gardens, Edinburgh, EH12 6HT (“the Property”)

Parties:

Mr Paul Mosson, 1 Tweedie Place, North Berwick, EH39 5QA (“the Applicant”)

Mrs Melanie Witherington, C/O Coulters Lettings, 32 North West Circus Place, Edinburgh, EH3 6TP (“the Respondent”) per her agents the said Coulters Lettings

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment of £2,325.00 be granted.

Background

1. By application received dated 11 April 2019 (“the Application”), the Applicant made an application to the Tribunal for an order in terms of Rule 103 of the Rules. A copy of the tenancy agreement between the Parties and Mr. Matthew Dudley and a note of the tenancy end date were lodged as part of the Application.
2. On 3 June 2019, a legal member of the Tribunal with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 7 August 2019 at 10.00 at George House, 126, George Street, Edinburgh EH2 4HH. The CMD was intimated to both parties.
3. Both Parties submitted written representations which were copied to each other.

Case Management Discussion

4. The CMD took place on 7 August 2019 at 10.00 at the said George House. The Applicant was not present and was represented by her agents. The Respondent was present.
5. I explained to the Parties the basis of the Application with reference to the Rules and to the Tenancy Deposit Schemes (Scotland) Regulations 2011 ("the 2011 Regulations") and in particular, that in terms of Regulation 10 of the 2011 Regulations, that if the Tribunal is satisfied that the landlord did not comply with Regulation 3 of the 2011 Regulations the Tribunal must grant an Order.
6. I noted from the Respondent's agents' written representations that they appeared to accept that the Respondent had not complied with Regulation 3 (b) of the 2011 Regulations and they confirmed that was so. Accordingly, the only matter for consideration is the amount of the Order which the Tribunal must impose and I heard from both Parties on this point. The Respondent's agents' offered £2,325.00 being one times the deposit, which offer the Applicant accepted.

Findings in Fact

7. From the Application, the written representations and the CMD, I found that the Respondent had not complied with Regulation 3 (b) of the 2011 Regulations and the Parties agreed on £2,325.00 in respect of an award.

Decision and reasons for Decision

8. Having found that the Respondent had not complied with Regulation 3 (b) of the 2011 Regulations, I then had regard to Rule 17(4) of the Rules which state that the Tribunal "may do anything at a case management discussion which it may do at a hearing, including make a decision". The Respondent, having accepted failure to comply with Regulation 3 (b) of the 2011 Regulations and Regulation 10 of the 2011 Regulations being mandatory, I therefore granted the Order sought. The Parties having agreed on £2,325.00 as the appropriate award, I granted the Order for this sum.

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.

K Moore

Legal Member/Chair

7 August 2019

Date