



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/PR/21/2265

Re: Property at 7H Centenary Gardens, Coatbridge, ML5 4BY (“the Property”)

Parties:

Mr Brian Hillen, Fairways, Drumpellier Avenue, Coatbridge, ML5 1RX (“the Applicant”)

Mr John Dougal, 7H Centenary Gardens, Coatbridge, ML5 4BY (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member) and Linda Reid (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £3400 be granted to the Applicant.

- **Background**

1. This was the second case management discussion (CMD) in respect of an application by the Applicant dated 14th September 2021 for an order for payment of rent arrears against the Respondent.
2. The following documents were lodged with the application:-
 - A copy of the Tenancy Agreement dated 9th October 2019
3. The Applicant had clarified on 30th September 2021 that he was applying under Rule 111 and confirmed that the rent of £425 per month had not been paid for June, July, August and September 2021 leaving arrears owing of £1,700 and lodged copy bank statements in support of this.
4. The Applicant subsequently confirmed in writing on the 27th October 2021 that he wanted to increase the sum sought to £2,125 which included the rent due in October 2021.

5. The first CMD was held on 26th January 2022 and only the Applicant was present with his wife Mrs Hillen. The Respondent had been served papers by sheriff officers so the Tribunal proceeded in his absence and Mrs Hillen who was acting as the representative for her husband clarified that the tenancy was entered into on 9th October 2019 with Mr Dougal as the tenant. She advised that he had been a good tenant and regularly paid his rent until June 2021 when he stopped paying and has not paid any since. She advised that the Respondent stopped contacting her or her husband and his phone number was no longer working. She confirmed that her husband, who owns the property and is the landlord, had raised a separate action of eviction and that since this was raised there has been no further payments or contact from the Respondent. She confirmed that in one of his last responses the Respondent did state that he was not going to pay any more rent.
6. Mrs Hillen confirmed that the current rent arrears were £3,400. The legal member explained that as intimation of this increased amount had not been made to the Respondent the Tribunal could only consider making an order for payment of the sum originally amended and claimed namely £2,125. Mrs Hillen indicated she wished to continue the matter to allow her to request an increase in the sum sought to £3400.
7. The Tribunal was adjourned and continued to today's date for the sum sought to be increased. The Applicant lodged his request to increase the sum to £3400 by e-mail dated 31st January 2022.

The Case Management Discussion (CMD)

8. The CMD proceeded today by way of teleconference. The Convener made introductions, and explained how the CMD would be conducted over the teleconference. The Applicant was in attendance along with his wife Mrs Hillen and Mr Hillen confirmed his wife would once again be his representative and would speak for him.
9. The Respondent did not attend on the call at 10 am and the Tribunal waited for 10 minutes to see if he would attend. The Respondent had been served a copy of the initial application and papers by sheriff officers on 22nd December 2021 and had been served notice of today's CMD by letter. The Respondent has been given fair notice and the Tribunal therefore felt it was appropriate and fair to continue in his absence and the CMD commenced at 10.10am.
10. Mrs Hillen confirmed she has not heard anything further from the Respondent and has received no further monies in rent. She advised that she believes he has left the Property after an order for eviction by the Tribunal was granted at the CMD held for that case. She did not know exactly when he left but believes it to be around 28th February 2022. She advised that the Property has been left in a mess with furniture and other belongings of the tenant in it and she is claiming the cost of removal of items, changing locks, repairing damage to kitchen cupboards, holes in walls and damage to door handles from the deposit paid of £400.
11. Mrs Hillen confirmed the rent arrears therefore due are £3,400 representing monthly rent due of £425 due from June 2021 to January 2022 inclusive which has not been paid.

- **Findings in Fact**

1. The parties entered into a lease of the Property which commenced on 9th October 2019.
2. The Rent due in terms of the lease is £425 every month payable in advance
3. The tenant left the Property on or around 28th February 2022 after being served a notice to leave and after an order for eviction had been sought and granted by the Tribunal in favour of the Applicants.
4. The Respondent failed to pay any rent due from June 2021 until today consisting of 8 months of non- payment.
5. The rent outstanding as at January 2022 is £3,400 which is rent due to 8th February 2022.
6. No further payments have been made towards the rent.
7. The deposit of £400 is being claimed by the applicant towards the cost of clearing and repairing damage to the Property.

- **Reasons for Decision**

8. The parties entered into a lease where the Respondent has leased the property from the Applicant from 9th October 2019 and has agreed to pay £425 every month in rent.
9. It appears the Respondent left the Property after the Applicants were granted an order for eviction around 28th February 2022.
10. The Applicant originally sought rent arrears of £2,125 but this represented only rent due to October 2021.
12. The Applicant has intimated a request to amend the sum sought to allow them to claim rent due on 9th January 2022 and has complied with Rule 14A of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 which states that any amendment to the application including to the sum claimed must be intimated at least 14 days prior to a case management discussion or hearing by intimating such amendment more than 14 days before today's discussion.
11. The Respondent has failed to make any payment of rent since June 2021. The Applicant is entitled to recover rent lawfully due.
12. The Respondent has made no appearance at either of the CMD's held to discuss this application and has made no written representations regarding the rent arrears.
13. The Tribunal accepts the written evidence and verbal statements made by the Applicant and his wife, who the Tribunal found clear and credible in her submission that the rent outstanding and due by the Respondent amounts to £3400
14. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

Decision

An Order for payment of the sum of £3,400 is granted.

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.

J. T

_____9th March 2022

Legal Member/Chair

_____ **Date**