



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/19/2263

Re: Property at 25D Ramsay Road, Kirkcaldy, Fife, KY1 1UA (“the Property”)

Parties:

Mrs Eileen Wearmouth, 33 Barnet Crescent, Kirkcaldy, KY1 1QU (“the Applicant”)

. Katerina Gini, 25D Ramsay Road, Kirkcaldy, Fife, KY1 1UA (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

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 of the sum of £1660 to the Applicant in relation to rent arrears due by the Respondent.
2. The application contained:-
 - a copy of the tenancy agreement; and
 - a copy of the Respondent’s rental statement
3. By way of email of 18 September 2019 the Applicant moved to amend the application in terms of rule 14A of the Tribunal Rules and seek an order for

payment for the sum of £2,460. A copy of the Applicant's email seeking to amend the amount sued for was sent to the Respondent on 23 September 2019.

4. The Applicant's letting agent Mark McDonald, from Fife Letting Service Ltd appeared on behalf of the Applicant. There was no appearance by the Respondent.
5. Notice of the Hearing and the application had been served on the Respondent by sheriff officers on 28 August 2019. As I was satisfied that the Respondent had been served with notice of today's hearing and that she had also had notice of the amendment to the sum sued for in the application, I was therefore prepared to proceed with today's hearing in her absence. I was also prepared to amend the sum sought in respect of the application.

Hearing

6. The Applicant's representative referred me to the papers which had been lodged in support of the application, including the tenancy agreement and updated rent statement. He advised that the Respondent had stopped paying her rent in April 2019 and there had been no further payments since then. He advised that the letting agent had attempted to contact her on a number of occasions to get her to repay her rent but these attempts had been unsuccessful. He advised that the Respondent was well aware of the need to pay her rent and the rent arrears. He understood that she was working full time.
7. He advised that the current level of arrears were £2,460.
8. The last payment she had made to the arrears was in April and it was for £100. There have been no further payments since that date.
9. The Applicant's representative advised that the Respondent was in rent arrears. She had been asked to repay them and had not one so, and therefore an order for payment was necessary.

Findings in Fact

10. The Tribunal found the following facts established:-
11. There existed a private residential tenancy between the Applicant and the Respondent. It had commenced on 9 November 2018.
12. Clause 6 of the Tenancy Agreement provides that the rent for the property is £400 per calendar month. It is payable in advance and due on the 9th of each month.

13. That rent arrears had been outstanding since 29 March 2019.
14. There are rent arrears outstanding at today's date and as sought in terms of the application totalled £2460.00.

Reasons for Decision

15. 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.
16. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
17. There was no response or appearance from the Respondent but she had been notified of today's hearing.
18. The tenancy agreement created obligations between the parties, one of those obligations was to pay rent, and the Respondent has 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 and this was therefore the sum still outstanding.
19. 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 Applicant for TWO THOUSAND FOUR HUNDRED AND SIXTY POUNDS (£2,460) STERLING against the Respondent.

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.

Legal Member/Chair

4. 10. 2011

Date