



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

Chamber Ref: FTS/HPC/CV/23/1780

Re: Property at Flat 6, 3 Baileyfield Crescent, Edinburgh, EH15 1BW (“the Property”)

Parties:

Castle Rock Edinvar Housing Association, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mr Connor Good (Flat 6, 3 Baileyfield Crescent, Edinburgh, EH15 1BW; (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order in the sum of Eight Thousand Five Hundred and Fifteen Pounds and Ten pence only (£8515.10) be granted in favour of the Applicant and against the Respondent together with interest at the rate of 4% per annum until the sum is paid in full.

Background

1.This application for a payment order in terms of rule 111 of the Tribunal rules of procedure was first lodged with the Tribunal on 31st May 2023 along with a related eviction order application with reference FTS/HPC/EV/23/1783.The applications were accepted by the Tribunal on 31st August 2023 and a case management discussion was fixed for both applications for 14th December 2023 at 10am.

Case Management Discussion

2.The case management discussion was attended by Ms Wilson of Patten and Prentice LLP solicitors on behalf of the Applicant. There was no appearance by or on behalf of the Respondent Connor Good. The joint tenant was present on the call as an observer having attended the teleconference in relation to the eviction application.

3.The Tribunal was aware that the application, supporting papers and the time and date of the case management discussion had been intimated to the Respondent Connor Good by Sheriff officer on 6th November 2023.The Tribunal was satisfied that the Respondent Connor Good had been given fair notice of the Case Management Discussion in terms of the Tribunal rules and that it was appropriate to proceed in his absence.

4.The Tribunal had sight of the application, a tenancy agreement, a paper apart, a covering letter and Notice to Leave sent to both Respondents by email, a pre action protocol letter sent to the Respondent Connor Good, a notice in terms of Section 11 of the Homelessness etc (Scotland) Act 2003 and an email sending this to Edinburgh City Council. The Tribunal also had sight of rent arrears statements and email correspondence between the Applicant's solicitor and the Tribunal. On 8th November 2023 the Applicant had requested to increase the sum being requested by way of a payment order to £8515.10 and this request had been intimated to the Respondent Mr Good in terms of the tribunal rules of procedure.

5.The parties had entered a tenancy with a joint tenancy in place at the property with effect from 11 June 2021.The monthly rent payable in advance was initially £605 per month and in June 2022 this was increased to £628.60.In July 2023 the monthly rent was increased to £647.46.The joint tenant left the tenancy with effect from 2nd September 2022 and advised the landlord's agent that she was no longer residing at the property. Rent arrears started to accrue in terms of the tenancy agreement after she left and apart from one payment of £1000 paid by the Respondent at the end of March 2023 no rent had been paid. Rent arrears had reached £8515.10 and the Applicant was seeking to recover this sum from the respondent Mr Good alone and not both Mr Good and the joint tenant. This was based on the fact that the arrears had accrued after she ceased to occupy the property. The Tribunal noted that on the front page of the tenancy agreement it was noted that where there are joint tenants the full rights and responsibilities apply to each tenant, and each is jointly and severally liable for all obligations of the tenant in the agreement.

6.Ms Wilson advised the Tribunal that when the Respondent Mr Good applied for the tenancy his job reference indicated that he had no specific salary, but he was known to be employed as a golf caddy and thought to be receiving around £1000 per month in wages. Despite letters to him there had been no communication by him on the matter of the rent arrears. Ms Wilson submitted that it would be reasonable to grant an order and was seeking interest at the rate of 4% to be added to the sum being requested.

7.The Tribunal considered that it had sufficient information to allow a decision to be made and that the proceedings had been fair.

Findings in Fact

8. The parties entered into a tenancy agreement at the property with effect from 11th June 2021.

9. The Respondent is one of two joint tenants named in the tenancy agreement.

10. At the start of the tenancy the monthly rent was £605 payable in advance but in 2022 this was properly increased to £628.60 per month and then in 2023 the rent was properly increased to £647.46 per month.

11. In September 2022 the joint tenant ceased to occupy the property and advised the landlord 's agent of this.

12. The Respondent remained in occupation at the property in terms of the tenancy agreement.

13. Since the joint tenant ceased to occupy the property the rent has fallen into arrears and only one payment towards rent has been made since September 2022.

14. The rent arrears as at the end of November 2023 are £8515.10.

15. The Respondent was working at the start of the tenancy and is believed still to be working and has made no attempt to communicate with the landlord's agents in relation to the matter of the rent arrears.

16. Both tenants are jointly and severally liable for all obligations under the tenancy agreement as set out on the front page of the tenancy agreement.

17. The Applicant seeks to recover the rent arrears from the Respondent only and not the joint tenant as the arrears accrued after the joint tenant ceased to occupy the property.

18. The sum of £8515.10 is lawfully due by the Respondent to the Applicant in terms of rent arrears accrued in terms of the tenancy agreement.

Reasons for Decision

19. The tribunal was satisfied that it was reasonable to make a payment order against the Respondent alone. He remained in occupation at the property in terms of the tenancy agreement after the joint tenant had ceased to occupy the property and has made only one payment towards rent since September 2022. There have been no attempts by him to communicate with the landlords' agents to discuss the rent arrears and the tribunal considered it was reasonable to grant the order in these circumstances. The Respondent is both jointly and severally liable for all obligations of the tenancy agreement in terms of the agreement itself. The Applicant was seeking interest at the rate of 4% on the sum being requested and this had been intimated in the application itself. The tribunal considered it was reasonable to make an order for interest to reflect the use value of the money which had remained unpaid. The

application contained a request for expenses but no request for expenses was made or considered by the Tribunal.

Decision

The Tribunal granted a payment order in the sum of Eight Thousand Five Hundred and Fifteen Pounds and Ten pence only (£8515.10) in favour of the Applicant and against the Respondent together with interest at the rate of 4% per annum until the sum is paid in full.

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.

Valerie Bremner

Legal Member/Chair

14.12.23

Date