



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/20/0073

Re: Property at 65 Dykemuir Street, Glasgow, G21 4LJ (“the Property”)

Parties:

Mr Pritpal Singh Khaira, 13 Elm Avenue, Lenzie, G66 4HJ (“the Applicant”)

Mr James Casserly, 65 Dykemuir Street, Glasgow, G21 4LJ (“the Respondent”)

Tribunal Members:

Neil Kinnear (Legal Member) and Angus Lamont (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

This is an application for a payment order dated 9th January 2020 and brought in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

The Applicant sought in his application payment of arrears in rental payments of £3,500.00 in relation to the Property from the Respondent, and provided with his application copy rent arrears statement and details of the lease.

The Respondent had been validly served by sheriff officers with the notification, application, papers and guidance notes from the Tribunal on 31st January 2020, and the Tribunal was provided with the execution of service.

A Case Management Discussion was held on 5th March 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow. The Applicant did not appear, but was represented

by Mrs McLaughlin, letting agent. The Respondent did not appear, nor was he represented. The Respondent had not responded to this application at any stage either in writing or by any other form of communication.

A Hearing was set for 15th April 2020. That Hearing had to be cancelled as a result of the coronavirus pandemic, and the lockdown imposed in the United Kingdom as a consequence thereof. The Parties were subsequently notified with the details of a Tele-Conference and provided with dial-in details.

Hearing

A Hearing was held at 10.00 on 11th August 2020 by Tele-Conference. The Applicant did not participate, and was again represented by Mrs McLaughlin. The Respondent did not participate, nor was he represented. The Respondent has not responded to this application at any stage either in writing or by any other form of communication.

The Tribunal was satisfied that the requirements of giving notice had been duly complied with, and proceeded with the application in terms of Rules 17 and 29 of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended.

Mrs McLaughlin gave evidence to the Tribunal that the Applicant entered into a private residential tenancy agreement in relation to the Property with the Respondent which commenced in early May 2019.

The agreement was in writing, but the Applicant gave the written agreement to the Respondent who said he required the original agreement to exhibit for his application for housing benefit. The Applicant did not keep a copy of the written agreement, and the Respondent has failed to return it.

Mrs McLaughlin confirmed that the monthly rent in terms of the agreement was £500.00. The Respondent paid the first month's rent at the commencement of the lease, but has failed to make any further payments since.

The amount sought in this application relates to non-payment of seven months' rent from June to December 2019 inclusive in terms of the rent arrears statement provided.

Mrs McLaughlin advised the Tribunal that an eviction order was granted against the Respondent on 5th March 2020, which the Applicant had not yet been able to enforce due to the coronavirus pandemic. He hoped to enforce that as soon as it was possible to do so.

There are, in fact, a further eight months' rental payments now outstanding, but Mrs McLaughlin indicated that the Applicant might bring a further application in relation to these additional sums in due course.

The Tribunal was invited by Mrs McLaughlin with reference to the application, papers, and her evidence, to grant an order for payment of the sum of £3,500.00.

Statement of Reasons

The jurisdiction of the Tribunal in relation to Private Residential Tenancies, such as that which applied to the Property, is set by statute. Section 71(1) of the *Private Housing (Tenancies) (Scotland) Act 2016* provides:

“First-tier Tribunal's jurisdiction

- (1) In relation to civil proceedings arising from a private residential tenancy—
(a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
(b) a sheriff does not have competence or jurisdiction.
(2) For the purposes of subsection (1), civil proceedings are any proceedings other than—
(a) the prosecution of a criminal offence,
(b) any proceedings related to such a prosecution.”

The Tribunal accordingly has jurisdiction to hear civil proceedings arising from a private residential tenancy such as between the parties in this application.

The Tribunal considered the evidence it had heard, the rent arrears statement provided, and the submissions made by Mrs McLaughlin, and was satisfied that these disclosed an outstanding balance of rent arrears for the period June to December 2019 of the sum sought of £3,500.00, which sum remains outstanding.

Accordingly, the Tribunal shall make an order for payment of that sum.

Decision

In these circumstances, the Tribunal will make an order for payment by the Respondent to the Applicant of the sum of £3,500.00.

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.

Neil Kinnear

11/08/2020

Legal Member/Chair

Date