



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 and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/CV/21/0381

Re: Property at 1 Castleton Crescent, Grangemouth, FK3 0BH (“the Property”)

Parties:

Mr Neil Gardner, Caerlaverock, Station Road, Polmont, Falkirk, FK2 0TY (“the Applicant”)

Miss Danielle Leary, 1 Castleton Crescent, Grangemouth, FK3 0BH (“the Respondent”)

Tribunal Members:

Martin McAllister (Legal Member) and David Fotheringham (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 for the sum of TWO THOUSAND SIX HUNDRED AND NINETY ONE POUNDS THIRTY SEVEN PENCE (£2,691.37) be made against Miss Danielle Leary in favour of the Applicant.

Background

This is an application for payment. The application is dated 18th February 2021.

Attached to the application was:

- (i) Copy of the private residential tenancy agreement for the Property dated 17th July 2019.**
- (ii) Copy rent statement up to 1st February 2021 showing a total sum due of £3,314.33.**
- (iii) Copies of text messages, receipts and bank statements of the Applicant.**

In addition, the Tribunal had a copy of the Sheriff Officer's execution of service on the Respondent dated 25th March 2021 which was in respect of intimation of the date and time of the case management discussion.

Preliminary Matters

- 1. The case management discussion was held by audio conference on 28th April 2021. The Applicant was present and the Respondent was not. The case FTS/HPC/EV/21/0350 was also dealt with. The Legal Member outlined the purpose of a case management discussion and the terms of Rules 17 and 18 of the Chamber Rules:**

Case management discussion

17.— (1) The First-tier Tribunal may order a case management discussion to be held—

- (a) in any place where a hearing may be held;*
- (b) by videoconference; or*
- (c) by conference call.*

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

- (a) identifying the issues to be resolved;*
- (b) identifying what facts are agreed between the parties;*
- (c) raising with parties any issues it requires to be addressed;*
- (d) discussing what witnesses, documents and other evidence will be required;*
- (e) discussing whether or not a hearing is required; and*

(f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

Power to determine the proceedings without a hearing

18.— (1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

- 2. The Tribunal noted that the Respondent had been advised of the date of the case management discussion on 25th March 2021 and the Tribunal had the relevant execution of service by sheriff officers which related to that intimation.**
- 3. The Tribunal considers that appropriate notice of the case management discussion has been given to the Respondent.**
- 4. No representations had been received by or on behalf of the Respondent. The appointed time for the case management discussion was 10 am and by 10 05 am she had not joined the conference call.**

The Case Management Discussion

- 5. It was noted that the application was for payment in respect of arrears of rent. The application stated that the sum claimed was in respect of the period from 1st December 2019 to 31st July 2020 and was for a sum of £3,080.**

6. The Applicant said that he wanted to amend the sum being claimed. He said that some payments had been made since the application was submitted and that the sum now being sought was £2,691.37. The Tribunal allowed the amendment requested by the Applicant.
7. Mr Gardner said that the last payment of rent which had been made by Miss Leary was on 28th November 2019. He said that rent had been paid to him by the Department of Work and Pensions since August 2020 and that, since November 2020, the DWP had paid monthly sums in excess of £400 due in respect of the rent. He said that he had applied these sums to the arrears and that is why he asked for the sum for the order to be amended.
8. Findings in Fact:
 - (i) The parties entered into a private residential tenancy for the Property and it is dated 17th July 2019.
 - (ii) The rent payable under the tenancy agreement is £400.
 - (iii) The outstanding rent as at 28th April 2021 is £2,691.37.
 - (iv) No payments have been received from the Respondent in respect of the arrears of rent.
 - (v) The Department of Work and Pensions has made payments in respect of rent due by the Respondent and has paid sums in excess of the monthly rent which the Applicant has applied to the arrears.

Reasons for the Decision

9. The Tribunal made the decision on the basis of the written evidence lodged with the application and the information provided by Mr Gardner.
10. The Tribunal considered Rules 17 and 18 of the Tribunal Rules.
11. The Respondent made no representations and did not participate in the case management discussion. The Tribunal saw no reason for a Hearing to determine the application. There was no defence to the action and the evidence was sufficient to allow the Tribunal to make a decision.

12. In terms of the tenancy agreement, the Respondent is obliged to make payments of rent. There are arrears of £2,691.37. This sum is less than £3,080 which is what has been intimated to the Respondent. The Respondent is aware that the Applicant is seeking an order for payment.

Decision

The Tribunal grants an order against the Respondent for payment of the sum of £2, 691.37 to the Applicant constituting arrears of rent due.

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.

**Martin J. McAllister
Legal Member
28 April 2021**