



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 for Civil Proceedings in relation to a Private Residential Tenancy.

Chamber Ref: FTS/HPC/CV/20/0405

Re: Property at 53 Mossgiel Way, Newarthill, Motherwell, ML1 5DZ (“the Property”)

Parties:

Ms Lucy Black, 0/1 64 Old Dumbarton Road, Glasgow (“the Applicant”)

Ms Carol Ann McNab, 17 Albion Tower, Motherwell, ML1 1XG (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order against the Respondent for payment of the sum of £2898.63 to the Applicant, under section 71 of the Private Housing (Tenancies) (Scotland) Act 2016.

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 111 of the Procedure Rules and concerned an Application under Section 71 of the Private (Tenancies) (Scotland) Act 2016 for civil proceedings in relation to a Private Residential Tenancy. The hearing took place by teleconference hearing due to the covid-19 pandemic. Both parties had been sent relevant instructions. The purpose of the hearing was explained and it was understood a final decision on the Application could also be made.

Attendance and Representation

The Applicant was present personally on the teleconference.

The Respondent did not attend the Tribunal. No written representations had been received. The Respondent had been personally served by sheriff officer on 18th March 2020 and had in addition received instructions to join the teleconference.

Preliminary Matters

There were no preliminary matters arising other than the non attendance of the Respondent..

Matters Raised

The Tribunal confirmed with the Applicant their knowledge if any of any entitlement to a relevant benefit or any reason for non payment of rent. The Applicant confirmed she did not but narrated a number of unrelated personal issues that had been communicated to her by the Respondent for non payment. The Applicant confirmed that the sum sought of £3098.63 she sought to be reduced to £2898.63. she explained that by separate process she had retained the deposit and after deduction of repairs this left a sum of £120 towards the arrears. She also said that the Respondent had made one payment of £80 towards the arrears and this left the amount due as £2898.63. The Tribunal considered to reduce the sum sought by amendment would not prejudice the Respondent and allowed same.

The Applicant confirmed the Respondent had been evicted on 20th January 2020. The rent due had been to this date. The Tribunal confirmed matters re the PRT lodged and the rent statement.

The Applicant confirmed that a payment order for non payment to the amount of £2898.63 was sought.

There were no other matters arising.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective.**

- The Respondent had received notification of the proceedings and had not challenged same by written representations or attendance.
2. The Applicant sought an Order for non payment of rent to the amount of £2898.63
 3. The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property.
 4. The Tribunal was satisfied that the relevant tenancy was in terms of the 2016 Act, a Private Residential Tenancy properly constituted and dated 14th February 2019. The Tribunal was further satisfied that the rent due was £600 per month and on the evidence before the Tribunal no rental payments had been received from October 2019 (inclusive) to the eviction date on 20th January 2020 under this said Tenancy. A rental statement had been lodged by the Applicant evidencing the rent due and significant submissions regarding rent due were made by the Applicant at the hearing. The evidence of the Applicant was found to be credible and reliable.
 5. Accordingly in terms of Section 71 of the 2016 Act the Tribunal granted a payment order against the Respondent for the sum of £2898.63.

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

14th July 2020