



Statement of Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/19/1073

Re: Property at 1A, Flat 2, Trafalgar Lane, Edinburgh, EH6 4DJ (“the Property”)

Parties: Miss Alison Miller, 6/1 Albion Gardens, Edinburgh, EH7 5QL (“the Applicant”)

Ms Sylwia Zielinska, 1A, Flat 2, Trafalgar Lane, Edinburgh, EH6 4DJ (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicant and has failed to pay rent and part of the tenancy deposit. The Tribunal accordingly has decided to make an order for payment in the sum of ONE THOUSAND SEVEN HUNDRED AND FIFTY POUNDS (£1750) STERLING. **The order for payment will be issued to the Applicant after expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.**

Background

1. By application dated 8 April 2019 the Applicant applied to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears and remainder of a deposit under a Private Residential Tenancy at the Property under Rule 111 of the First-tier Tribunal

for Scotland Housing and Property Chamber (Procedure) Regulations 2017 ("the Regulations").

2. On 11 April 2019, the Tribunal gave notification of acceptance of the application to the Applicant.
3. On 23 April 2019, the Tribunal enclosed a copy of the application and invited the Respondent to make written representations to the application by 11 May 2019. The Tribunal advised parties on 23 April 2019 that a Case Management Discussion under Rule 17 of the Regulations would proceed on 24 May 2019. This paperwork was served on the Respondent by Alexander Irvine, Sheriff Officer, Glasgow on 24 April 2019 and the certificate of execution of service was received by the Tribunal administration.
4. The Respondent did not make any written representations by 11 May 2019.

Case Management Discussion.

5. The Tribunal proceeded with the Case Management Discussion on 24 May 2019. The Applicant appeared personally. The Respondent did not appear and was not represented.
6. The Tribunal had before it a Private Residential Tenancy Agreement between the Applicant and the Respondent signed and dated 15 December 2018, a printout of a bank statement in the name of the Applicant dated 8 April 2019, and a letter from the Applicant dated 2 April 2019 to the Respondent. During the course of the Case Management Discussion the Applicant produced a further letter dated 2 May 2019 addressed to the Respondent and an up to date bank statement.
7. Ms Miller explained to the Tribunal that in terms of Clause 7 of the Tenancy Agreement, the Respondent agreed to pay an initial instalment of rent of £383.00 to cover the period from 15 – 31 December 2018 and thereafter a monthly rent of £700 on 1st of the month to the Applicant. She also explained that in terms of Clause 10 of the Tenancy Agreement the Respondent agreed to pay a deposit of £700 in two equal instalments of £350 due on 31 December 2018 and 26 January 2019.
8. The Applicant went on to explain that the Respondent had fallen into arrears of rent and that the Respondent had not paid the second instalment of the of deposit of £350. She referred to the bank statements before the Tribunal.

These related solely to the Property and showed payments made to the Property account. The Applicant explained the Respondent had missed the rent due of £700 on 1 January and 1 April 2019. She also referred to letters she sent to the Respondent on 2 April 2019 and 2 May 2019. The Applicant sought payment for arrears of rent and tenancy deposit in the sum of £1750.

Findings in Fact

9. The Applicant and the Respondent agreed by way of a Private Residential Tenancy Agreement dated 12 December 2018 in relation to the Property. The Respondent agreed to pay would pay the Applicant a calendar monthly rent of £700 due on 1st of each month with an initial instalment of rent of £383.00 to cover the period from 15 – 31 December 2018. The Respondent also agreed to pay the Applicant a deposit of £700 in two equal instalments of £350 due on 31 December 2018 and 26 January 2019.
10. The Respondent paid the initial instalment of the deposit of £350 on 31 December 2018, the initial payment of rent of £383 for the period 15 -31 December 2018, rent of £700 on 1 February 2019, 1 March 2019 and 1 May 2019.
11. The Respondent has made no payments of rent due on 1 January 2019 or 1 April 2019.
12. The Respondent has not paid the second tenancy deposit instalment of £350 due on 26 January 2019.
13. The Applicant has attempted to engage with the Respondent to get her to pay the outstanding rent and deposit. The Respondent has refused to do so.
14. Arrears of rent are £1400.

Reasons for Decision

15. The Applicant provided evidence of non-payment of rent and the second instalment of the tenancy deposit in the form of her bank statements for the Property and her letters of 2 April and 2 May 2019. The Tribunal was satisfied on the basis of the bank statements and letters and the supporting oral submissions made by the Applicant that the Respondent is in arrears of rent of £1400 and had failed to pay the tenancy deposit of £350 and accordingly granted an order for payment of £1750.

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.

Ms Shirley Evans

~~Shirley Evans~~
Legal Member/Chair

24 May 2019
Date