



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/19/1724

Re: Property at 43 St Catherine Street, Banff, Aberdeenshire, AB45 1JQ (“the Property”)

Parties:

Mr Malcolm Courcier, 4 Birtwhistles Yard, Skipton, BD23 2LR (“the Applicant”)

Miss Ewa Wrobel, 43 St Catherine Street, Banff, Aberdeenshire, AB45 1JQ (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal 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 would be granted in favour of the Applicant against the Respondent in the sum of ONE THOUSAND ONE HUNDRED AND FIFTY ONE POUNDS and 51p (£1151.51) STERLING

Background

The Applicant was the owner of the Property. He alleged that the Respondent had been a tenant of the Property under a lease granted on 1 December 2018. He alleged that the Respondent had failed to make rental payments due up until the termination of the lease around 17 June 2019 to the amount of £1151.51. Attempts to recover the sums from the Respondent had been unsuccessful and, as a result, the Applicant had applied to the Tribunal seeking a payment order against the Respondent for these sums.

The Tribunal had before it the following information and documents:-

- A copy of the Land Certificate for the Property showing the Applicant as the owner;

- A copy of the Applicants application to the Tribunal dated 4 June 2019;
- A copy of the lease of the Property between the parties with a commencement date of 1 December 2018;
- A rental arrears statement setting out the arrears of rent at the Property;
- Certificate of Service by Advertisement dated 29 October 2019.

The Case Management Discussion (“CMD”)

The Tribunal held a CMD at Banff Sheriff Court, Low Street, Banff on 29 October 2019 at 10am. The Applicant was not present or represented but had indicated to the Tribunal that it was work commitments that were prohibiting him from attending.

The Respondent was neither present nor represented. Originally Sheriff Officers had been instructed to serve the Tribunal papers on the Respondent. However, the Sheriff Officers had reported that the Respondent was no longer resident in the address for service they had been given. The occupier had advised that she had returned to Poland to live and that no address was available for her. On the basis that her whereabouts were unknown the Tribunal effected service by advertisement on the Tribunal website between 25 September and 29 October 2019. The Tribunal had sight of the Certificate of Advertisement from the Clerk to the Tribunal confirming this. On that basis the Tribunal was satisfied that notice had been given and that it was appropriate for the Tribunal to make a determination at the CMD.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Applicant granted a lease of the Property to the Respondent with effect from 1 December 2018 at £450 per calendar month;
- From February 2019 the Respondent became erratic in payment of the monthly rental and by termination of the lease on 17 June 2019 there were arrears of £1151.51;
- The lease terminated on 17 June 2019;
- There were arrears of rental due by the Respondent to the Applicant of £1151.51.

Reasons for the Decision

The Tribunal was satisfied from the evidence before it that the Respondent had failed to pay the rent due. The lease evidenced a requirement to pay £450 per calendar month. The rental statement evidenced that there were arrears of £1151.51 by the termination of the lease. The Tribunal had no reason to doubt the nature or veracity of the evidence from the Applicant. The Respondent had not disputed the evidence or suggested that monies were not due. On that basis and on the balance of probability, the Tribunal found in favour of the Applicant and that there were £1151.51 arrears of rent due. The Tribunal determined to make a payment order in favour of the Applicant against the Respondent for that amount.

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.

E. Miller

Legal Member/Chair

29/10/19

Date