



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/19/3109

Re: Property at Flat 3 Closeburn Terrace, 59 Feus Road, Perth, PH1 2AX (“the Property”)

Parties:

Mrs Julienne Christie-Henry, 7 Gowrie Way, St Madoes, Perth, PH2 7FD (“the Applicant”)

Mr Nicholas Cunningham, Ms Samantha Michie, 135 Craigie Road, Perth, PH2 0BJ; UNKNOWN, UNKNOWN (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the second named Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for the amount of £657.12.

Background

1. An application was received by the 2nd October 2019. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments with arrears amounting to £657.12.
2. The application included:-
 - a. Copy Scottish Government Model Private Residential Tenancy Agreement with commencement of tenancy being 30th March 2018;

- b. Inventory dated 14th August 2019;
 - c. Various correspondence between the Applicant and the letting agent;
 - d. The Applicant's bank statements;
3. The Tribunal also had before it a copy of the title deeds numbered PTH29227.
 4. A Notice of Acceptance of Application was signed on 17th October 2019.
 5. On 1st November 2019, all parties were written to with the date for the Case Management Discussion ("CMD") of 6th December 2019 at 10am at The Inveralmond Business Centre, Auld Bond Road, Perth. The letter also requested all written representations be submitted by 22nd November 2019.
 6. On 5th November 2019, sheriff officers served the letter with notice of the hearing date and documentation upon the first named Respondent by leaving in the hands of his father, Mr Brian Cunningham. This was evidenced by Certificate of Citation dated 5th November 2019. The sheriff officers were not able to effect service on the second named Respondent.
 7. On 18th November 2019, the Applicant was advised that the hearing had been postponed to effect service by advertisement on the second named Respondent.
 8. On 16th December 2019, all parties were written to with the date for the CMD of 20th January 2020 at 10am at The Inveralmond Business Centre, Auld Bond Road, Perth.

The Case Management Discussion

9. A CMD was held on 20th January 2020 at 10am at The Inveralmond Business Centre, Auld Bond Road, Perth. The Applicant represented herself and attended with her husband. The first named Respondent, Mr Nicholas Cunningham, attended and represented himself. The second name Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. Neither party made representations in advance of the hearing. The first named Respondent noted that he had moved out of the Property in April 2018. He is not able to contact the second Named Respondent for legal reasons. He had been waiting to have his name removed from tenancy but the second named Respondent had not signed the new lease. The Tribunal noted that clause 1 of the Private Residential Tenancy Agreement explicitly states:
"Where this is a joint tenancy the term "tenant" applies to each of the individuals and the full responsibilities and rights set out in this Agreement apply to each Tenant who will be jointly and severally liable for all of the obligations of the Tenant under this Agreement"

It is clear from this that both Respondents had signed the Private Residential Tenancy Agreement were jointly and severally liable and so liable for the outstanding arrears.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 30th March 2018.
11. The Respondents persistently failed to pay their rent charge of £450 per month. The rent payments are due to be paid on 30th day of each month.
12. There are no outstanding Housing Benefit issues.
13. The arrears sought totalled £657.12. Amounting to rent arrears

Decision

14. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £657.12.

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.

G. Miller

Legal Member ~~Chair~~

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Date

20 JAN 2020