



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

Chamber Ref: FTS/HPC/CV/19/3276

Re: Property at 106 Thistle Street, Dunfermline, Fife, KY12 0JA (“the Property”)

Parties:

Mrs Zoe Cargill, 5, The Glades, Penarth, Wales, CF64 3AY (“the Applicant”)

Mr Philip Pringle, 106 Thistle Street, Dunfermline, Fife, KY12 0JA (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent of the sum of £1275 should be granted in favour of the applicant.

Background

1. An application was received on 11 October 2019 from the applicant for a payment order brought in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).
2. The applicant was seeking payment of rent arrears of £1275 from the respondent in relation to the property, being the amount of arrears outstanding at the date of the application.
3. The application included a copy of the tenancy agreement between the parties, a copy of the Notice to Leave served on the respondent on 10 September 2019 and a rent statement showing the rent arrears due as at 8 November 2019, which was submitted later by the applicant following a request from the tribunal.

4. Notice of the case management discussion (CMD) scheduled for 16 January 2020 by conference call, together with the application papers and guidance notes, was served on the respondent by sheriff officers on behalf of the tribunal on 13 December 2019.
5. No written representations or time to pay application were received from the respondent prior to the CMD.

The Case Management Discussion

6. A CMD was held on 16 January 2020 by teleconference at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was present, and her husband Mr Scott Cargill was also in attendance. She gave evidence on her own behalf. Around 10 minutes into the CMD (the tribunal delayed the start of the CMD by 10 minutes, in case the respondent had been detained) the respondent joined the conference call, having had some technical difficulties. The tribunal therefore started the CMD again at that point, and explained the process again, for the respondent's benefit.
7. The applicant told the tribunal that the respondent had paid no rent since 28 June 2019, and was now in seven months' arrears, totalling £2975. She asked the tribunal to grant an order for that sum.
8. The respondent accepted that he was in arrears, but appeared unclear as to the exact amount of arrears. He admitted that he owed at least three months' arrears and said that he 'probably will be' in seven months' arrears. He was unsure as to whether he had received any letters from the applicant notifying him of the arrears due.
9. The tribunal chairperson noted that the respondent had received notice that he owed £1275 in respect of the rent for May, June and July 2019, as this was stated in the Notice to Leave served on him by the applicant. He had acknowledged receipt of the Notice to Leave in an email dated 12 September 2019.
10. The tribunal chairperson asked the applicant whether she could produce any further letters to the respondent notifying him of the updated rent arrears, after the Notice to Leave was served. She replied that she could not, stating that she had just assumed that the respondent would be aware that the arrears were increasing.
11. The tribunal chairperson pointed out that no request to amend the application to increase the sum claimed had been received by the tribunal as required by rule 14A of the 2017 rules. The applicant said that she was unaware of this rule, and had assumed that the tribunal would grant an order for the amount due at the date of the CMD. She indicated that, rather than seek an

adjournment to allow such an amendment to be made, she wished to proceed on the basis of the sum set out in the application.

Findings in Fact

12. The tribunal made the following findings in fact:

- The applicant was the landlord in terms of the private residential tenancy agreement between the parties which commenced on 8 February 2019.
- The title deed for the property showed that the applicant was the sole owner of the property.
- The monthly rent payable in terms of the tenancy agreement was £425 per month, payable on the 8th of each month.
- The respondent had been in rent arrears continuously since 8 July 2019.
- The respondent owed the sum of £1275 as at the date of the application.

Reasons for Decision

13. Having considered all the evidence before it, the tribunal was satisfied that the respondent was due to pay £1275 in rent arrears to the applicant. The tribunal therefore decided to make an order for payment by the respondent to the applicant of that sum.

14. The tribunal noted that a deposit of £425 was payable by the respondent to the applicant in terms of the tenancy agreement and that the applicant may be able to claim this sum from the tenancy deposit scheme in respect of any other outstanding arrears.

Decision

The tribunal grants an order for payment by the respondent to the applicant for the sum of £1275.

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.

Sarah O'Neill

Legal Member/Chair

16/1/20

Date