



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/CV/20/2360

Re: Property at 3/1 993 Sauchiehall Street, Kelvingrove, Glasgow, G3 7TZ (“the Property”)

Parties:

Mr Sam Stead, 69 Hamilton Road, Reading, Berkshire, RG1 5RD (“the Applicant”)

Mr James Ward, 3/1 993 Sauchiehall Street, Kelvingrove, Glasgow, G3 7TZ (“the Respondent”)

Background

1. By application submitted on 10 November 2020, the Applicant sought a payment order in the sum of £4,364.75 against the Respondent in respect of rent arrears incurred in respect of the Property in terms of Rule 111 of the Regulations.
2. Supporting documentation was submitted in respect of the application, including a Rent Statement.
3. A Legal Member of the Tribunal with delegated powers from the Chamber President subsequently issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 20 November 2020. A Case Management Discussion (“CMD”) was assigned for 18 January 2021 at 10am. Notification of the CMD and copies of the case papers were served on the Respondent by Sheriff Officer on 10 December 2020. Written representations were to be lodged by 30 December 2020. No written representations were lodged by the Respondent.
4. On 8 January 2021, the Applicant emailed the Tribunal Administration, seeking to increase the sum sued for to £6,250 in respect of further rent arrears which have accrued since the application was submitted and attached an updated rent statement. He quoted Rule 14(1) of the Regulations in support of this.

Case Management Discussion

5. On 18 January 2021, the Applicant, Mr Stead, participated in the CMD. The Legal Member delayed the start of the Case Management Discussion for a few minutes after 10am to see if the Respondent joined but he did not do so.
6. After introductions and introductory remarks by the Legal Member, The Applicant addressed his Application and confirmed that he was seeking an order for payment in the increased sum of £6,250 in respect of rent arrears.
7. As a preliminary issue, the Legal Member considered the Applicant's request to amend his application by seeking the increased sum in terms of the Regulations. Having regard to Rule 14A(1), which specifically mentions amendment to the sum claimed, the Legal Member stated that she did not consider that the request to amend had been submitted in accordance with that rule in that the Applicant had not intimated the proposed amendment to the Tribunal at least 14 days prior to the CMD and appeared not to have directly intimated it to the Respondent. The Legal Member accordingly refused to allow the amendment and gave the Applicant the option of continuing the CMD to a later date to allow the amendment to be made or to proceed today on the basis of the original sum claimed in terms of the application. The Applicant opted to proceed today.
8. The Applicant then further addressed the Application and answered some questions from the Legal Member. He referred to the Rent Statement and confirmed that the Respondent had only ever made payment of the first months' rent of £1,250 at the commencement of the tenancy in June 2020 and that no payments have been received since. The Respondent also paid the Deposit in terms of the lease. By the time the application was submitted to the Tribunal, the sum claimed of £4,364.75 was owing and the arrears figure has increased since. The Applicant confirmed that his Letting Agent had gone through the usual procedures in attempting to contact the Respondent about the rent arrears but the Respondent did not offer any explanation, make any further payments, nor make any offers of payment. As far as the Applicant is aware, the Respondent continues to reside at the Property, with a Mr McLaughlin. Permission has not been given by the Applicant for Mr McLaughlin to live there.

Findings in Fact

9. The Applicant is the owner and landlord of the Property.
10. The Respondent is the sole tenant of the Property by virtue of a Private Residential Tenancy commencing on 23 June 2020.
11. The rent in terms of the tenancy is £1,250 per calendar month.
12. The first monthly rental payment was made in June 2020 but no further rent payments have been made by or on behalf of the Respondent.

13. The amount owing in rent arrears when this application was submitted to the Tribunal on 10 November 2020 was £4,364.75.
14. Further arrears have accrued since this application was submitted to the Tribunal.
15. No explanation has been given for the non-payment of rent by the Respondent, nor attempts to resolve the issue.
16. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this application. The Respondent did not attend the CMD.
17. The sum of £4,364.75 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy and has not been paid by the Respondent.

Reasons for Decision

18. The Respondent did not submit any written representations to the Tribunal and did not attend the CMD, having been properly and timeously notified of same.
19. The Legal Member was further satisfied from the information contained in the application and supporting documentation, together with the oral submissions made by the Applicant at the CMD that the balance of the sum claimed in unpaid rent of £4,364.75 is due and resting owing by the Respondent.
20. The Legal Member concluded that there being no information to the contrary from the Respondent that the matter did not require to go to an evidential hearing and that an order for payment in that sum should be made.

Decision

21. The Legal Member accordingly determines that an order for payment by the Respondent of the sum of £4,364.75 should be made in favour of the Applicant.

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.

Nicola Weir

Legal Member/Chair

18 January 2021
Date