



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/19/3461

Re: Property at Flat 1/2, 98 Neilston Road, Paisley, PA2 6EN (“the Property”)

Parties:

Mrs Moira Lang, 34 Riccarton Avenue, Paisley, PA2 6BG (“the Applicant”)

Mr Szymon Wankowicz, Flat 1/2, 98 Neilston Road, Paisley, PA2 6EN (“the Respondent”)

Tribunal Members:

Sarah O'Neill (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 by the respondent of the sum of £1450 should be granted in favour of the applicant.

Background

1. An application was received on 28 October 2019 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 £870 from the respondent in relation to the property. An amended application form was later received from the applicant on 27 December 2019, seeking payment of £1450 rent arrears, being the amount outstanding as at that date, together with the (unspecified) cost of any repairs or maintenance which may be required to bring the property back to the condition it was in at the start of the tenancy.

3. The revised application included a copy of the tenancy agreement and a rent statement showing the rent outstanding to be £1450. The application was then accepted by the tribunal on 9 January 2020.
4. Notice of the case management discussion (CMD) scheduled for 19 February 2020, together with the application papers and guidance notes, was served on the respondent by sheriff officer on behalf of the tribunal on 16 January 2020.
5. The tribunal issued a direction to the applicant on 3 February 2020, requiring the applicant to provide copies of any letters or notices sent to the respondent by the applicant regarding the outstanding arrears. The applicant's representative responded on 7 February 2020, and attached copies of various rent statements and copies of text messages between the parties.
6. No written representations or time to pay application were received from the respondent prior to the CMD.

The Case Management Discussion

7. A CMD was held on 19 February 2020 at Glasgow Tribunals Centre, 20 York Street, Glasgow G2 8GT. The applicant was present and was represented by her husband, Mr David Lang. The respondent was not present and was not represented.
8. The tribunal was satisfied that the requirements of rule 17 (2) of the 2017 rules regarding the giving of reasonable notice of the date, time and place of a CMD had been duly complied with. The tribunal delayed the start of the CMD by 10 minutes, in case the respondent had been detained. He did not appear, however, and no telephone calls, messages or emails had been received from him. The tribunal therefore proceeded with the CMD in the absence of the respondent.
9. Mr Lang asked the tribunal to grant an order for the sum of £1450 in respect of rent arrears owed by the respondent as at 31 December 2019. He pointed to the updated rent statement provided to the tribunal with the revised application received on 27 December 2019. He said that the respondent owed rent arrears of £2030 as at the date of the CMD, but that the applicant did not wish to delay matters further by requesting a further amendment of the sum due.
10. He also confirmed that the applicant did not wish to claim for any further sums in addition to the rent arrears. He said that the applicant would claim the £290 tenancy deposit paid by the tenant at the start of the tenancy, which had been paid into an approved tenancy deposit scheme, in respect of any other costs.

Findings in Fact

11. The tribunal made the following findings in fact:

- There was a private residential tenancy agreement between the parties which commenced on 18 September 2018.
- The monthly rent payable in terms of the tenancy agreement was £290 per month, payable on the 1st of each month.
- The respondent owed rent arrears of £1450 to the applicant as at the end of December 2019.
- The applicant had notified the respondent of the outstanding rent arrears, in a Notice to Leave served on him on 14 June 2019, and in further communications between the applicant's representative and the respondent both prior to and after that date.

Reasons for Decision

12. Having considered all of the evidence before it, the tribunal was satisfied that the respondent was due to pay the applicant the sum of £1450 in rent arrears. The tribunal was also satisfied that the applicant had been in regular contact with the respondent regarding the rent arrears, and that he was therefore aware of these. The tribunal therefore decided to make an order for payment by the respondent to the applicant of £1450.

Decision

The tribunal grants an order for payment by the respondent to the applicant for the sum of £1450.

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.

S.O

Legal Member/Chair

19/2/20

Date