



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/19/0479

Re: Property at 6 Oakwell Road, Castle Douglas, DG7 1JY (“the Property”)

Parties:

Walleys Marts PLC, Ring 3, New Market Street, Castle Douglas, DG7 1HY (“the Applicant”)

Miss Aimee Burns, 3 Halliday Place, Dalbeattie, DG5 4FE (“the Respondent”)

Tribunal Members:

Melanie Barbour (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

Background

1. An application was made to 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 2017 Rules”) seeking an order for payment to the Applicant in relation to rent arrears and damages due by the Respondent.
2. The application contained:-
 - a copy of the Tenancy Agreement;
 - a copy of the rental schedule;
 - entry record of condition and photographs;
 - exit record of condition and photographs;
 - carpet and vinyl invoice; and
 - Cleaning and damage invoice.

3. The Applicants' representative, Emma McGuinn, from Wallets Marts PLC, attended on behalf of the Applicant. There was no appearance from the Respondent.
4. Notice of the Hearing together with a copy of the application and confirmation that the Respondent could make written representations in response to the application had been served on the Respondent on 20 March 2019. I was satisfied that the Respondent had had formal notice of today's hearing and I was therefore prepared to proceed in her absence.

The Hearing

5. The Applicants' representative submitted that there was a tenancy agreement between the Applicants and the Respondent. This application related to unpaid rent due in terms of that agreement and also, in terms of damages to the property, more particularly the replacement of dining room carpet and kitchen vinyl, cleaning and the removal of rubbish. She referred me to clauses 8, 11, 17, 25 and 35 in respect of the claim.
6. In terms of the sum sought, the Applicant's representative advised that they were no longer seeking repairs to the door as these repairs had not been carried out.
7. She advised that the Applicant had recovered the deposit for the property and therefore the deposit had been deducted from the sum claimed.
8. She advised that the Respondent had left after her 28 days' notice period and a full month's rental for December was not due and therefore this sum was also amended.
9. She had submitted a revised rental statement by email on 20 March 2019, showing that the amended rental sum due was now £472.60.
10. She confirmed that the Applicant was still seeking recovery of the cost of replacing the carpet and vinyl and the costs of this amounted to £638.34. She advised that the carpet and vinyl had been brand new when the Respondent had taken entry of the property she advised that the sums sought to replace the carpet and vinyl was less than the original costs of the carpet and vinyl and therefore she submitted that she should be entitled to the full sum of costs for the carpet and vinyl and given that the floor coverings were only 5 months old no cost for wear and tear should be deducted.
11. They also sought the cleaning costs and removal of rubbish and those costs amounted to £85.

12. She referred me to the invoices which had been submitted in support of those costs.
13. She advised that the amended now sought was £1,195.94. This sum remained outstanding and due from the Respondent.

Findings in Fact

14. The Tribunal found the following facts to be established:
15. A tenancy agreement was entered into between the Applicants and the Respondent for the property and existed between the parties. It was entered into on 10 August 2018.
16. The clause 8 in the tenancy agreement provided that monthly rent was £575, that monthly rent was payable in advance and the rent payment date was 10th of each month.
17. That the rental statement, showed rent due for November and December rents; it recorded the credit of the deposit; it did not show any other payments being made; and showed the total rent balance outstanding.
18. That invoices had been submitted for the replacement of vinyl and carpets; and cleaning and removal rubbish.
19. That clause 17 of the tenancy agreement requires the tenant to take reasonable care of the let property including keeping it clean; clause 25 deals with the contents and condition of the property and obliges the tenant to repair and replace any of the contents which are destroyed and damaged.
20. That check in and check out reports had been lodged showing the condition of the property before it was let and after it had been let, these appeared to show that there had been damage to the floor coverings.
21. That it appeared that there had been no payments towards the rent arrears other than those shown on the rent statement.

Reasons for Decision

22. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from a private residential tenancies.
23. As this tenancy is a private residential tenancy I am content that I have jurisdiction to deal with this case.
24. There was no response or appearance from the Respondent but she had been notified of today's hearing.

25. The tenancy agreement created obligations between the parties, those obligations included, to pay rent, to pay for damages and to keep the property clean and tidy as set out in the tenancy agreement. The Respondent would appear to have failed to adhere to those obligations. There was submitted an updated rental statement showing the updated arrears due. This rental sum and the carpet/vinyl and cleaning costs were still outstanding.
26. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the amended sum sued for.

Decision

I grant an order in favour of the Applicants for ONE THOUSAND ONE HUNDRED AND NINETY FIVE POUNDS NINETY FOUR PENCE (£1,195.94) STERLING against the Respondent.

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.

M Barbour

Legal Member/Chair

20. 4. 19

Date