



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/19/2656

Re: Property at 35A Queen Street, Carnoustie, Angus, DD7 7AX (“the Property”)

Parties:

G.P. Grants Promotions Ltd, 17 Taymouth Street, Carnoustie, Angus, DD7 7QH (“the Applicant”)

Miss Claire Henderson, 35A Queen Street, Carnoustie, Angus, DD7 7AX (“the Respondent”)

Tribunal Members:

Ewan Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant would be granted an order for payment against the Respondent for the sum of NINE HUNDRED AND FIFTY POUNDS (£950) STERLING, payable at the rate of £100 per calendar month, with the first payment on 28th January 2020 and monthly thereafter

Background

The Applicant was the owner of the Property. They had let the Property to the Respondent at a monthly rent of £400 per calendar month. Arrears of rent had arisen and the Applicant had raised an action with the Tribunal seeking a payment order against the Respondent

The Tribunal had before it the following information:-

- A copy of the Applicant’s application to the Tribunal dated 21 August 2019;
- A copy of the lease of the Property between the parties;

- The Applicant's Land Certificate evidencing ownership of the Property;
- An initial rental statement showing £900 being due;
- An updated rental statement and email (26.11.19) from the Applicant's letting agent showing £1240 due as at 15 November 2019;
- A letter from the Respondent's solicitor of 8 October 2019 alleging, inter alia, issues with the Property.

Case Management Discussion ("CMD")

The Tribunal held a CMD at Dundee on 16 December 2019 at Caledonia House, Greenmarket, Dundee at 11.30 am. The Applicant was not present but was represented by his letting agent Mr David Wilkie of the Property Management Company, Tayport, Fife. The Respondent was present and was represented by her solicitor Mr Peter Kinghorn of Dundee North Law Centre, Dundee.

Findings in Fact

The Tribunal found the following facts to be established:-

- The Applicant was the owner of the Property;
- The Applicant had let the Property to the Respondent from 15 December 2017 at a monthly rent of £400;
- For the purposes of resolving the dispute, the parties had agreed rent arrears of £950.

Reasons for the Decision

The Tribunal noted that the parties were in dispute about both the amount of rental outstanding and also the condition of the Property during the tenancy and what element of rent abatement may or may not have been due. In the circumstances, the Tribunal was of the view that the matter would need to be referred to a further hearing for determination. However, the Tribunal was of the view that an earlier resolution without the need for further procedure would be possible if the parties liaised with each other regarding a possible settlement. The parties were agreeable to this and accordingly a brief adjournment took place for discussions. Subsequently the parties advised they had reached an agreement between them that £950 was deemed to be outstanding with the Respondent making payments at £100 per month with the first payment being made on 28 January 2020. The Tribunal noted that the deposit of £400 was still in situ on a relevant deposit scheme and that the Respondent would authorise a full repayment to the Applicant to go towards reducing the sums due under the order. On the basis the parties had agreed the sums and instalment arrangement, the Tribunal saw no benefit in matters being debated further and was content to grant the order as agreed.

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.

Ewan Miller

Legal Member/Chair

16/12/19

Date