



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/CV/20/1013

Re: Property at 49 Campsie Road, Kilmarnock, KA1 3RW (“the Property”)

Parties:

Mr David McNight, Mrs Kirsty McNight, 4 Tower Place, Kilmarnock, KA1 5HL (“the Applicants”)

Ms Kerry Luchesi and Mr David Robertson, 21 Central Avenue, Kilmarnock, KA1 4PT (“the Respondents”)

Tribunal Member:

Martin McAllister (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondents for payment of the sum of FIVE THOUSAND FIVE HUNDRED POUNDS (£5,500) to the Applicant.

Background

On 18TH March 2020 the Applicant submitted an application to the First-tier Tribunal for Scotland seeking payment of the sum of £3,000 in respect of rent arrears.

A case management discussion was held on 5th August 2020. Prior to the date of that case management discussion, the Applicants had submitted an updated rent statement showing that the sum being sought by the Applicants had increased to £5,500. At the case management discussion on 5th August 2020, the Respondents accepted that they owed the sum of £5,500 to the Applicants. They stated that they would require time to pay the debt and consequently

wanted to submit an application for a time to pay direction. The case management discussion was adjourned to allow an opportunity for this to be done.

The case management discussion on 7th September 2020.

This was held by audio conference because of the public health crisis.

Mr Tom Telfer of Lets Agree Sales and Lettings was present and represented the Applicants. Both Respondents were present. Ms Lucchesi said that no application had been made for a time to pay direction because they had no surplus funds available to offer instalment payments.

Findings in Fact

1. The parties entered into a private residential tenancy agreement in respect of the Property.
2. The private residential tenancy agreement was dated 29th September and 5th October 2019.
3. The tenancy commenced on 8th October 2020.
4. The monthly rent due under the private residential tenancy was £475.
5. The tenancy has been terminated.
6. The sum due and unpaid in respect of rent is £5,500.

Documents before Tribunal

1. Private residential tenancy agreement dated 29th September and 5th October 2018.
2. Rent statement showing arrears of rent of £5,500.

Reasons

The Tribunal accepted that the Respondents owed at least £5,500 to the Applicants in respect of rent arrears.

The rent statement submitted to the tribunal showed arrears of £5,500. The tribunal accepted that the Respondents have a contractual obligation to pay rent in terms of the private residential tenancy agreement before it. The Respondents accept that this sum of £5,500 set out in the rent statement is due.

It is a matter of agreement that the tenancy has been terminated and the Respondents confirmed that they now reside at 21 Central Avenue, Kilmarnock, KA1 4PT.

The Respondents were candid in accepting that the sum of £5,500 is due to the Applicants but that they were not in a position to make any offer of payment.

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. M

Legal Member

7th September 2020