

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision 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/18/2320

Re: Property at 43 Woodburn Road, Dalkeith, EH22 2AU (“the Property”)

Parties:

Slash Property Ltd, c/o Neil Reid Property, 15 Hardengreen Business Park, Esbank, Dalkeith, EH22 3NX (“the Applicant”)

Miss Nicky Cameron, Mr Jason Tully, 43 Woodburn Road, Dalkeith, EH22 2AU (“the Respondent”)

Tribunal Members:

Anne Mathie (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted.

- Background

The applicant sought an order for payment in respect of rent arrears and admin costs associated with late payment and preparation of the tribunal applications in terms of Rule 111 of the Chamber Rules. An application was received by the tribunal in this regard on 31 August 2018. A separate eviction action was also raised. Along with the application the applicant's representative lodged a rent statement, a copy of the tenancy agreement and a copy of the Notice to leave. A lot of correspondence in relation to the rent arrears between the parties was also lodged. A Case Management Discussion was set down for today and this was intimated to parties. The respondents were advised that they had until 28 November to lodge written representations. No written representations have been received. The applicant's representative contacted the tribunal by email on 28 November

2018 with copies further correspondence between the parties and an up-to-date rent statement.

- The Case Management Discussion

The Case Management Discussion took place today. The second respondent confirmed that the first respondent was aware of the details of the case even though all the correspondence had been with him. The applicant's representative advised that the former owner of the property had transferred ownership to the applicant and was able to provide an up-to-date land certificate in this regard. Discussion took place surrounding that admin fees for late payments (as set down in the tenancy agreement) as compared with the admin fees for preparing the tribunal application. Whilst the former was a contractual right the latter could be said to not accord with Chamber Rule 40 which provides for awards of expenses only in certain circumstances.

- Findings in Fact

The respondents are jointly and severally liable for the payment of rent on the property which was agreed at £630 per month.

The rent arrears (including 4 x contractual late payment admin fee of £24) are agreed at £1638.54

- Reasons for Decision

Taking into account parties' representations and the documents before it the tribunal decided this was the sum due in terms of the tenancy agreement.

There was nothing before the tribunal challenging or disputing the evidence before it.

- Decision

The tribunal grants an order for payment in the sum of £1638.54

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons

for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

Anne Mathie

Legal Member/Chair

30 November 2018

Date