

Housing and Property Chamber
First-tier Tribunal for Scotland



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) 2016 Act

Chamber Ref: FTS/HPC/CV/19/2897

Re: Property at 17B Rosslyn Road, Ashgill, ML9 3AT (“the Property”)

Parties:

Mrs Claire Robb, 38 Station Road, Carluke, ML8 5AD (“the Applicant”)

Ms Kirsty Russell, 17B Rosslyn Road, Ashgill, ML9 3AT (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application by the Applicant and David Robb for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 as amended (“the Procedure Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy Agreement of the Property by the Applicant and David Robb to the Respondent commencing on 5 April 2018.
2. The application was dated 12 September 2019 and lodged with the Tribunal on that date. The order sought in the application was for £1,430 of rent arrears being a shortfall of £55 on rent due on 5 April 2019 and five months of unpaid rent of £275 per month falling due from the payment dates in May to September 2019.

The Hearing

3. On 20 November 2019, at a case management discussion ("CMD") of the First-tier Tribunal for Scotland Housing and Property Chamber, sitting at the Glasgow Tribunals Centre I was addressed by the Applicant's agent, Jacqueline Duggan of Let Link Ltd.
4. There was no appearance for the Respondent. The Applicant's agent confirmed that no contact had been received from the Respondent since September 2019 when she had stated she had been intending to move out of the Property. I considered the evidence of intimation of the application and CMD by the Tribunal's Sheriff Officer and, on waiting a few additional minutes for any appearance, was satisfied to consider the application in the Respondent's absence.
5. The Applicant's agent confirmed that the application was still insisted upon and she confirmed that no rent had been received for two further months (October and November) with the sum due as of 5 November 2019 was £1,980.
6. A preliminary issue was discussed regarding the application. The Tribunal's own investigations had confirmed that the Property was owned by the Applicant but the lease and the application was in the joint names of David Robb and Claire Robb. The Applicant's agent was satisfied to accept that only the Applicant was the owner and the application was duly amended to drop reference to Mr Robb.
7. The application did not seek any contractual rate of interest. The Applicant's agent confirmed no order in respect of expenses was sought.

Findings in Fact

8. On 28 March and 4 April 2018, the Applicant let the Property to the Respondent under a Private Residential Tenancy with commencement on 5 April 2018 ("the Tenancy").
9. Under the Tenancy, the Respondent was to make payment of £275 per month in rent to the Applicant on the 5th of each month.
10. On 12 September 2019, the Applicant raised proceedings for an order for payment of the rent arrears of £1,430 due to that date.
11. As of 12 September 2019, there was unpaid rent of £1,430 due by the Respondent to the Applicant in terms of the Tenancy being a shortfall of rent due on 5 April 2019 of £55 and unpaid rent of £275 per month due on 5 May, 5 June, 5 July, 5 August and 5 September 2019.
12. The Respondent provided no evidence of payment of any part of the said unpaid rent of £1,430.

13. The Respondent provided no detail of a dispute that the said unpaid rent was due in full.
14. On 22 October 2019, a Sheriff Officer acting on the instruction of the Tribunal intimated upon the Respondent the date and time of the CMD.

Reasons for Decision

15. The application was in terms of rule 111, being an order for civil proceedings in relation to a private residential tenancy. I was satisfied, on the basis of the application and supporting papers, and the submissions provided by the Applicant's agent at the CMD, that rent arrears of £1,430 were outstanding as at 12 September 2019 and still unpaid for that period as at the date of the CMD.
16. I was satisfied that the necessary level of evidence for such civil proceedings had been provided. The Procedure Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. On the basis of the information held, I am thus satisfied to grant award the sum of £1,430 at this time.
17. For the avoidance of doubt, this sum is in regard to rent due to 12 September 2019 and no other claim under the Tenancy.

Decision

18. In all the circumstances, I grant an order against the Respondent for payment of the sum of £1,430 to the Applicant with interest at 8% per annum from today's date until 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.

J. C

Legal A

20 November 2019
Date