



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Rented Housing Scotland Act 2016

Chamber Ref: FTS/HPC/CV/20/0425

Re: Property at 6 Froghall Terrace, Aberdeen, AB24 3JJ (“the Property”)

Parties:

Lord Innes Catto, 15 Chesterfield Hill, London, W1J 4BP (“the Applicant”)

Miss Kimberly Baff, 6 Froghall Terrace, Aberdeen, AB24 3JJ (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent to the Applicant of the sum of £6,050 should be granted.

1. A Case Management Discussion (CMD) was held at 10am on 17th July 2020 by teleconference due to the current requirements for social distancing caused by the Covid 19 pandemic. The original date for the CMD had been cancelled due to the pandemic and ultimately postponed to today’s date.
2. . The Applicant was not present in person but was represented by his representative Mr Vincent Spangenberg of Pebble Mountain Properties Limited. There was one observer Ms Caitlin Munro who is a trainee clerk.
3. The respondent did not attend, nor did anyone appear on her behalf. There had been no reason intimated in advance for her non-appearance nor any request made for a postponement of the CMD. The Tribunal noted that valid intimation of the CMD had been made to the Respondent by e-mail dated 17th June 2020. Accordingly the Tribunal proceeded to hold the CMD in the absence of the Respondent.

The Case Management Discussion

4. There were no written representations received from the Respondents.
5. Mr Spangenberg advised that that the Respondent had entered into a lease of the Property from the Applicant which commenced on 1st April 2019. The Respondent was obliged in terms of the lease to pay £550 per month but has paid nothing since moving into the Property on 1st April 2019. He advised that the Respondent had advised the local authority would be paying the rent via benefits but no rent was ever paid and she does not seem to have applied for universal credit.
6. At the date of raising this application for an order for payment for rent arrears on 3rd February 2020 the Respondent owed £6050 as per the rent statement lodged with the application.
7. The Tribunal had issued a direction asking for a clear rent schedule setting out the running balance, confirmation of whether the tenant was still in the Property and if any deposit had been paid.
8. The Applicant replied by e-mail of 7th July 2020 lodging a fresh rent statement showing the latest rent due and not paid was on 1st July 2020 and that the current arrears were now £8,800 and confirmed the tenant was still in the Property. Mr Spangenberg advised that if possible the Applicant was seeking an order for the whole amount due today.
9. Mr Spangenberg advised orally at the CMD that there had been no payments ever made including no deposit, from the Respondent. He also advised that the Applicant has now obtained an order for eviction so the Respondent should be evicted at some point in the near future. .

Findings in Fact

10. The parties entered into a lease of the Property which was dated 18th March with a commencement date of 25th March but from the Applicant's statement has actually commenced on 1st April 2019.
11. The Rent due is £550 per calendar month payable in advance
12. The rent outstanding at the date of the application namely 3rd February 2020 was ££6050.
13. The Rent outstanding at today's date is ££8,800
14. There is no deposit paid in terms of the lease

• Reasons for Decision

15. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £550 per month in rent.
16. The Respondent has failed to pay the full rent due and in particular has not paid anything towards the rental sums since the commencement of the lease.
17. The sum due at today's date is £8,800 but this amended sum claimed has not been duly intimated on the Respondent in terms of Rule 14A of the First Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and so the Legal Member of the Tribunal advised that the sum could not be amended today.
18. Mr Spangenberg advised the Applicant would prefer to have an order for the rent arrears sought and intimated in the original application namely £6,050, rather than continue the CMD to amend the sum claimed in the application.

19. The Tribunal accepts the written evidence and verbal statements made by the Applicant's agent, who the Tribunal found clear and credible in his evidence that the rent outstanding at the time of the application amounts to £6,050 up to and including the rent due on 1st February 2020. In the absence of any response from the Respondent finds it fair and appropriate to make an order for payment for that sum today.
20. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

Decision

The Tribunal grants an order for payment by the Respondent to the Applicant for the sum of £6,050

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 Todd

Legal Member/Chair

17th July 2020 _____
Date