



Decision with Statement of Reasons 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/22/0811

Re: Property at 9 Raeburn Park, Perth, PH2 0ER (“the Property”)

Parties:

Mrs Judith Murrie, Mr Philip Murrie, 137 Glasgow Road, Perth, PH2 0LU (“the Applicants”)

Mrs Jamie-Lee Northcott, Mr Lee Northcott, UNKNOWN, UNKNOWN (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicants were entitled to an order for payment by the Respondents to the Applicants in the sum of £5387.67.

Background

1. By application dated 17 March 2022 the Applicants’ representatives, McCash & Hunter, Solicitors, Perth applied for an order for payment in respect of alleged rent arrears arising from the Respondents’ tenancy of the property. They submitted a copy of the tenancy agreement together with the letting agents’ statement of account in support of the application.
2. By Notice of Acceptance dated 7 April 2022 a legal member of the Tribunal accepted the application and a Case Management Discussion (“CMD”) was assigned.
3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 17 May 2022.

4. A CMD was held by teleconference on 20 June 2022. The Applicants were represented by Ms Pantelli of McCash & Hunter, Solicitors. The Respondents did not attend nor were they represented. As the Applicants wished to amend the sum claimed the CMD was adjourned for that purpose.
5. By email dated 23 June the Applicants' representatives advised that the Respondents had vacated the property on 20 June 2022.
6. By email dated 12 July 2022 the Respondents advised the Tribunal that they intended to apply for bankruptcy through the Citizens Advice Bureau.
7. By email dated 28 July 2022 the Applicants' representatives submitted an application to amend the sum claimed to £7087.67 together with confirmation of intimation of the amendment to the Respondents and further documentation from the Applicants' letting agents.

The Case Management Discussion

8. A CMD was held by teleconference on 12 August 2022. The Applicants were represented by Mr Paul McGregor from McCash & Hunter, Solicitors. The Respondents did not attend nor were they represented. The Tribunal being satisfied that intimation of the CMD had been sent to the Respondents determined to proceed in their absence.
9. The Tribunal noted that the application to amend the sum claimed was timeous and had had been properly intimated to the Respondents by email and allowed the sum claimed to be amended to £7087.67. This took account of the rent due by the Respondents up to the date they vacated the property, 20 June 2022 and amounted to £6787.67 together with an additional £300.00 claimed for an unpaid pet deposit. However, the Tribunal queried whether the sum of £300.00 sought by the Applicants in respect of the unpaid pet deposit was a legitimate claim. For the Applicants, Mr McGregor acknowledged that this amount would have been held by Safe Deposits Scotland as security for any debt due by the Respondents and as such should not form part of the claim for payment. He asked the Tribunal to restrict the sum claimed to £6787.67.
10. The Tribunal noted from the documents provided by the Applicants' representatives that the Respondents had paid a deposit of £1400.00. The Tribunal queried if the deposit had been repaid to the Applicants. Mr McGregor said that it was his understanding that it had not yet been paid but that it was the Applicants' intention to claim the deposit. The Tribunal indicated that if the Applicants were claiming the deposit to recover rent arrears, then it would not be appropriate for the Tribunal to grant an order for the full amount of the outstanding rent as the Applicants would then have an order for an amount greater than the actual sum due. Mr McGregor acknowledged this and said the Applicants would accept an order in the sum of £5387.67.

Findings in Fact

11. The parties entered into a Private Residential Tenancy Agreement that commenced on 15 June 2020 at a rent of £750.00 per calendar month.
12. The Respondents vacated the property on 20 June 2022. At that time they owed the Applicants rent amounting to £6787.67.
13. At the commencement of the tenancy the Respondents paid a deposit of £1200.00 and paid a further pet deposit of £200.00. The deposit was placed in a tenancy deposit scheme with Safe Deposit Scotland.
14. The Applicants intend to claim the deposit to cover unpaid rent.

Reasons for Decision

15. The Tribunal was satisfied from the written representations and documents together with the oral submissions that the parties entered into a Private Residential Tenancy at a rent of £750.00 per calendar month. The Tribunal was also satisfied that as at the date of vacating the property the Respondents owed rent amounting to £6787.67. As the Respondents had paid a deposit of £1400.00 and it appeared that it was the Applicants' intention to claim this from Safe Deposits Scotland as payment towards the arrears of rent the Tribunal determined that this amount should be deducted from the sum claimed.
16. The Tribunal took account of the fact that despite being given an opportunity to participate in the proceedings and attend the CMD the Respondents only contact with the Tribunal was to indicate that they were both unemployed and intended to apply for bankruptcy and to include the rent due to the Applicants in their application.
17. The Tribunal was satisfied it had sufficient information before it to allow it to make a decision without the need for a hearing.

Decision

18. Having carefully considered the written and oral submissions and the documents before it the Tribunal finds the Applicants entitled to an order for payment by the Respondents to the Applicants in the sum of £5387.67.

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.

G Harding

Graham Harding
Legal Member/Chair

12 August 2022
Date