



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) Act 2016

Chamber Ref: FTS/HPC/CV/22/3772

Re: Property at 58 Scott Place, Fauldhouse, West Lothian, EH47 9LH (“the Property”)

Parties:

Mrs Brenda Mitchell, Mr Brian Mitchell, Pathways 91 Rowan Drive, Blackburn, West Lothian, EH47 7PA; 91 Rowan Drive, Blackburn, West Lothian, EH47 7PA (“the Applicants”)

Mr Nicholas Anderson, 58 Scott Place, Fauldhouse, West Lothian, EH47 9LH (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Mr G Darroch (Ordinary 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 should be granted in favour of the Applicants in the sum of £2,458.40.

Background

1. The Applicant leased the Property to the Respondent in terms of a Private Residential Tenancy Agreement (“the PRT”) that commenced on 1 May 2018. The rent payable in terms of the PRT is £545 per calendar month on the 1st day of each month.
2. A Case Management Discussion (“CMD”) took place on 23 March 2023 by telephone conference. The Applicants and Respondent were in attendance. At that time, the rent arrears due by the Respondent amounted to £2,345.74. The Respondent claimed that he had withheld rent in respect of repairs due. The Respondent said he was unable to say whether the total sum was correct. The CMD was continued to a further CMD to allow the Respondent to access support and representation.

3. By email dated 9th May 2023, the Applicants made an application to increase the sum sought to £2,458.40.

The Case Management Discussion

4. A CMD took place by telephone conference on 24th May 2023. The Applicants were in attendance. The Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Respondent.
6. The Applicants said the rent arrears are now £2458.40. No payment has been made for two years. The Respondent has been in arrears since June 2018.
7. The Tribunal accepted the application to increase the sum sought.
8. Responding to questions from the Tribunal, regarding the Respondent's claim that he was withholding rent due to required repairs, the Applicants said they had never been notified by the Respondent that he was withholding rent. They had always attended to complete notified repairs within 48 hours.

Findings in Fact and Law

9.
 - (i) Parties entered into a private residential tenancy agreement that commenced on 1st May 2018 with rent due in the sum of £545 per month.
 - (ii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - (iii) The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

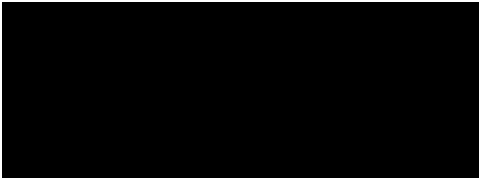
10. The Tribunal noted that no evidence had been lodged by the Respondent to substantiate his claim to have withheld rent due to repairing issues.
11. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.

Decision

An order for payment is granted in favour of the Applicant in the sum of £2458.40.

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.



Legal Member/Chair

24th May 2023
Date