



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/22/3777

Re: Property at Flat 7, 6 Queensgate, Inverness, IV1 1DA (“the Property”)

Parties:

Drayton (Edinburgh) Limited, 7 Hopetoun Crescent, Edinburgh, EH7 4AY (“the Applicant”)

Mr Norman MacDonald, formerly residing at Flat 7, 6 Queensgate, Inverness, IV1 1DA and whose current whereabouts are unknown (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of SEVEN THOUSAND FOUR HUNDRED AND SEVENTY-SIX POUNDS AND TWELVE PENCE (£7476.12) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an action for recovery of rent arrears raised in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the Respondent and Gateway Properties (Scotland) Limited dated 30 October 2020 and a rent statement to 1 August 2022. After further enquiries from the Tribunal the Applicant’s agent also enclosed a letter from Messrs Milne and Company dated 23 January 2023 confirming that the

Applicant had acquired the Property along with others from Gateway Properties (Scotland) Limited on 21 May 2021 and a letter to the tenants stating that management of the properties was being transferred to Ballantynes.

3. A Case Management Discussion ("CMD") under Rule 17 of the Regulations was assigned to proceed on 14 April 2023. Neither party appeared nor was represented at the CMD on 14 April 2023. The Tribunal issued a written decision to reject the application on 14 April 2023 ("the decision"). A copy of the decision was intimated to the parties.
4. On 14 April 2023, the Applicant's agent sent an email to the Tribunal explaining that she had failed to appear at the CMD on 14 April 2023 due a sudden family bereavement late on 13 April 2023. The Tribunal recalled the decision on 27 April 2023 and a copy intimated to both parties.
5. The Respondent emailed the Tribunal on 4 May 2023 querying what he was supposed to do. On 11 May 2023 the Tribunal emailed the Respondent to suggest he take his own independent advice.
6. On 11 July 2023 the Tribunal emailed both parties to advise a CMD would proceed on 7 August 2023 by way of teleconference call. On 12 July 2023 the Respondent emailed the Tribunal to advise he would call the Tribunal the following day. On 24 July 2023 the Respondent emailed to advise he could not attend on 7 August 2023 as he had to go back home to Lewis to sort a family emergency out, that his uncle had passed away 2 weeks previously and that he needed to be home for the will reading.
7. The Tribunal replied to the Respondent on 24 July 2023 to clarify that there was no need to attend in person as the CMD was by way of a teleconference call via a Freephone telephone number. He was asked to clarify the contents of his email as to whether he was requesting a postponement of the CMD. The Tribunal confirmed the CMD would proceed as scheduled unless he was notified otherwise.
8. On 27 July 2023 the Respondent sent a further email querying whether he had to be attend. The Tribunal responded by email on 28 July 2023 to advise the CMD was proceeding as scheduled and that he was to dial in on the Freephone telephone number and passcode provided. He was advised that if he wanted to request a postponement, he had to make such a request in writing and intimate that to the Applicant.

Case Management Discussion

9. The Tribunal proceeded with the CMD on 7 August 2023 by way of teleconference. The Applicant was represented by Miss Gibson from Ballantynes, Letting and Managing Agents. The Respondent was not present or represented despite the Tribunal starting 5 minutes late to allow the

Respondent time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded in his absence.

10. The Tribunal had before it the copy of the Private Residential Tenancy Agreement between the Respondent and Gateway Properties (Scotland) Limited dated 30 October 2020, a rent statement to 1 August 2022, a letter from Messrs Milne and Company dated 23 January 2023 confirming that the Applicant had acquired the Property along with others from Gateway Properties(Scotland) Limited on 21 May 2021 and a letter to tenants stating that management of the properties was being transferred to Ballanytnes.
11. Miss Gibson moved the Tribunal to grant an order for repayment of arrears of £7476.12. The Tribunal noted that in terms of Clause 7 of the tenancy agreement the monthly rent was £700 and that in terms of Clause 10 there was a deposit of £600. With reference to the rent statement lodged the Tribunal noted the arrears to 1 August 2022 were £8076.12. Miss Kelly advised the tenancy had terminated on 19 August 2022. There had been no correspondence with the Respondent since then and no payments. She explained they had recovered the full £600 of the deposit, hence the arrears being £7476.12.

Findings In Fact

12. Gateway Properties (Scotland) Limited and the Respondent entered into a Private Residential Tenancy Agreement of 30 October 2020. In terms of Clause 7 the Respondent agreed to pay £700 per month rent. In terms of Clause 10, he paid a deposit of £600.
13. Gateway Properties (Scotland) Ltd sold the Property to the Applicant on 21 May 2021. The Applicant is the heritable proprietors of the Property.
14. The tenancy terminated on 19 August 2022. The Respondent had fallen into arrears of rent and as of the date of termination was in rent arrears of £8076.12. He is in breach of Clause 7 of the tenancy agreement. The Applicant recovered the deposit of £600 which reduced the arrears to £7476.12. No further payments have been made.

Reasons for Decision

15. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Miss Gibson.
16. The Tribunal noted the terms of the tenancy agreement and the rent statement which set out how the arrears had arisen. The Applicants had purchased the Property on 21 May 2021 and had produced evidence of persistent non-

payment of rent. The Respondent had not disputed the application. The Tribunal was satisfied on the basis of the documents lodged, together with Miss Gibson's submissions that an order for payment in favour of the Applicant be granted.

Decision

17. The Tribunal granted an order for payment of £7 476.12.

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.

S Evans

9 August 2023

Legal Member

Date