



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/22/0044

Re: Property at 49 Orchard Road, Kinghorn, Fife, KY3 9XN (“the Property”)

Parties:

Mrs Nathalie Cunningham, 12 Canmore Street, Kinghorn, Fife, KY3 9RH (“the Applicant”)

Mr Brogan Wilkie, Miss Erin Carr, 49 Lawson Street, Kirkcaldy, Fife, KY1 3LB (“the Respondents”)

Tribunal Members:

Steven Quither (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondents are jointly and severally liable to the Applicant in the sum of FOUR THOUSAND ONE HUNDRED AND TWENTY THREE POUNDS ONLY (£4123) STERLING.

1. BACKGROUND

This is an application for payment of rent arrears of £4123 arising out of a Private Residential Tenancy Agreement between the parties in respect of the Property commencing 29 November 2019 in which the Respondents agreed to pay rent of £525 per calendar month.

Following upon sundry procedure, a Case Management Discussion (“CMD”) was fixed for 4 April 2022.

2. CASE MANAGEMENT DISCUSSION

The CMD took place by teleconference on 4 April 2022, when the Applicant attended. The Respondents were neither present nor represented.

Confirmation was available of sheriff officer intimation of the CMD on the Respondents by letter box delivery and ordinary post on 18 February 2022. Accordingly, notwithstanding the Respondents’ absence, the Tribunal

considered the CMD could proceed. Clearly, however, since the Respondents were neither present nor represented, no facts relating to the background in which the rent fell into arrears were capable of agreement.

The Applicant understood her husband knew the First Respondent through mutual employment contacts or suchlike, which acquaintanceship had led to the lease between the parties. She further understood that the First Respondent had perhaps encountered employment difficulties arising out of the covid pandemic in 2020, which she recognised by reducing the rent for to £420 for several months in 2020. Thereafter, she had had discussions with the Respondents in 2021 about the increasing rent arrears and possible options available to the Respondents to obtain assistance with payment of same, but the arrears continued to accrue.

She confirmed that as best she was aware, the Respondents were now living in local authority accommodation by virtue of an application made or pending while they were living at the Property. Originally, she had wished to bring the lease to an end in order that her son could live in the property and had served a Notice to Leave based on that, in accordance with which the Respondents had moved out on or about 12 December 2021, the date to which rent arrears had accrued, per Rent Statement lodged in support of this application.

The Applicant became aware of some issues during the tenancy and also to be attended to after it came to an end but beyond what is stated herein, she could not provide any further information about any reasons behind the rent arrears which had accrued or regarding any proposal for settlement of same.

In the circumstances she asked the Tribunal to make the order for payment sought in the amount of £4123.

Obviously, in view of the Respondents' non-attendance, there was no challenge to any of what was stated on behalf of the Applicant.

3. FINDINGS IN FACT

The Respondents are due and liable for arrears of rent up to 12 December 2021 in the sum of £4123 arising out of a Private Residential Tenancy Agreement for the Property between the parties commencing 29 November 2019, in respect of which the Respondent agreed to pay rent of £525 per month. In view of the terms of Clause 1 of said Agreement, the liability is joint and several.

4. REASONS FOR DECISION

The Tribunal was prepared to accept the position as stated on behalf of the Applicant regarding accrual of rent arrears, there being no contrary position placed before it. Accordingly, the Respondents are due and liable jointly and severally for arrears of rent in the sum of £4123 up till 12 December 2021, when they vacated the Property and it is just to grant the order for payment in that amount.

5. DECISION

To grant the order for payment sought against the Respondents jointly and severally in the sum of £4123.

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. Quither

4 APRIL 2022

Legal Member/Chair

Date