



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/21/0281

Re: Property at 57 Cumbrae Drive, Motherwell, ML1 3LJ (“the Property”)

Parties:

Mr Andrew McMahon residing at 20 Eastfield Road, Witney, Oxfordshire, OX28 1HN, and Mrs Samantha MacLeod, residing at 65 Viewpark Road, Motherwell, ML1 3H (“the Applicants”)

Miss Gillian Stobie, Mr Liam Stobie, Mr John Vogwell, all residing at 57 Cumbrae Drive, Motherwell, ML1 3LJ and Mr Gary Stobie, residing at 1 Plested Court, Aylesbury, Buckinghamshire HP22 5UB (“the Respondents”)

Tribunal Members:

Jim Bauld (Legal Member) and Frances Wood (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order should be granted for payment in the sum of FIVE THOUSAND FOUR HUNDRED AND FIFTEEN POUNDS AND THIRTY THREE PENCE (£5,415.33)

Background

1. Three separate applications had been lodged by the applicants. Two applications seek an eviction order in respect of a private residential tenancy (FTS/HPC/EV/20/2562 and FTS/HPC/EV/21/0280). This application seeks an order for payment of rent arrears arising from that tenancy (FTS/HPC/CV/21/0281)
2. By application dated 5 February 2021, the applicants sought a payment order against the respondents in respect of rent arrears. It was given reference number FTS/HPC/CV/21/0281

3. On 17 February 2021 this application was accepted by the tribunal and referred for determination by the tribunal along with the two eviction applications
4. It was decided that all three applications should also have CMDs set to take place on 5 March 2021 and that all three applications would be considered together
5. The Case Management Discussion (CMD) took place on 5 March 2021 via telephone case conference. The applicant Samantha MacLeod was present and was represented by her letting agent, Ms Vikki McGuire, Jewel Homes Limited, Atrium Business Centre, North Caldeen Road, Coatbridge, ML5 4EF. Mr McMahon did not attend. Only one of the Respondents attended, namely Mrs Gillian Stobie. She confirmed that Liam Stobie and Gary Stobie were her sons and that John Vogwell was her husband
6. The tribunal decided that all three applications should be adjourned and that a further case management discussion in respect of all three applications will take place on 23 April 2021 at 10 am. Full reasons for the adjournment are set out in the Note issued after the CMD

The adjourned Case Management Discussion

7. The adjourned Case Management Discussion (CMD) took place on 23 April 2021 via telephone case conference. The applicant Samantha MacLeod was present and was again represented by her letting agent, Ms Vikki McGuire, of Jewel Homes Limited. Mr McMahon did not attend. None of the respondents attended nor were they represented. The tribunal was satisfied that all had been given appropriate notice of the date and time of the CMD.
8. The tribunal explained the purpose of the CMD and the powers available to the tribunal to determine matters. The tribunal asked various questions with regard to the application and the applicant and the applicant's representative confirmed that they wished the tribunal to grant the payment order sought in the application
9. The tribunal noted that the sum now being claimed was £5415.33. Appropriate notice in terms of the tribunal procedure rules had been given to the respondents of the request by the applicant to amend the sum claimed from the original amount of £3949.73

Findings in Fact

10. The applicants and the Respondents as respectively the landlord and tenant entered into a tenancy of the property which commenced on 5 April 2019.
11. The tenancy was a private residential tenancy in terms of the Private Housing (Tenancies) (Scotland) Act 2016.

12. The agreed monthly rental was £500.
13. Arrears began to accrue from September 2019.
14. At the date of the lodging of the application arrears amounted to £3,949.73
15. The amount of arrears at the date of the CMD on 23 April 2021 were £5,415.33
16. Appropriate accounting had been provided in respect of the outstanding rent with the application to the tribunal
17. The basis for the order for Payment was accordingly established

Reasons for Decision

18. The tribunal accepted the unchallenged evidence of the applicant regarding the outstanding sums. The tribunal noted that the respondents had failed to engage with both the applicant and with the tribunal despite having ample opportunity to do so
19. The tribunal also exercised the power within rule 17 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 and determined that a final order should be made at the CMD.

Decision

The order for payment of the sum of £5,415.33 is granted

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.



Jim Bauld
Legal Member/Chair

23/04/2021

Date