



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 Reference Number: FTS/HPC/CV/21/2537

Re: Property at 59 Parkhead Crescent, West Calder, EH55 8AX (“the Property”)

Parties:

Mrs Margaret Stewart residing at Pennyghael, Main Street, East Whitburn, EH7 0JB (“the Applicant”) and

Miss Lisa McIver and Mr Ben Harman both residing at 41 Marina Avenue, Bathgate, EH48 1TF (“the Respondents”)

Tribunal Member:

G McWilliams- Legal Member

Decision:

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined as follows:

Background

1. This is an Application for a payment order, contained within papers lodged with the Tribunal between 15th October 2021 and 11th November 2021, in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure (“the 2017 Rules”).
2. In the Application, the Applicant sought payment of arrears in rental payments of £7566.06 in relation to the Property from the Respondents. The Applicant provided copies of the parties Private Residential Tenancy Agreement (“PRT”) and a Rent Arrears Statement.

3. The parties' PRT had been correctly and validly prepared in terms of the provisions of The Private Housing (Tenancies) Act 2016 and the procedures set out in that Act had been correctly followed and applied.
4. The Respondents had been validly served by Sheriff Officers with the Notification, Application papers and Guidance Notes from the Tribunal on 13th December 2021, and the Tribunal was provided with the Certificate of Intimation.

Case Management Discussion

5. A Case Management Discussion ("CMD") proceeded remotely by telephone conference call at 11.30am this morning, 18th January 2022. The Applicant attended. The Respondents did not attend and were not represented. The Respondents had not lodged any representations with the Tribunal in advance of the CMD. The Applicant stated that she sought a payment order in the total sum of £7566.06, in respect of the rent arrears owing until 22nd July 2021 when a previously obtained Eviction Order was enforced. The Applicant said that when Sheriff Officers attended at the Property that day they discovered that the Respondents had left the Property. The Applicant also said that she had tried to obtain rental payments from the Respondents through DWP Universal Credit, on four occasions during the tenancy, but had been unsuccessful each time.

Statement of Reasons for Decision

6. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides as follows:
 - (1) In relation to civil proceedings arising from a private residential tenancy-
 - (a) the First-tier Tribunal has whatever competence and jurisdiction a sheriff would have but for paragraph (b),
 - (b) a sheriff does not have competence or jurisdiction.
 - (2) For the purposes of subsection (1), civil proceedings are any proceedings other than-
 - (a) the prosecution of a criminal offence,
 - (b) any proceedings related to such a prosecution.
7. Accordingly, the Tribunal has jurisdiction in relation to claims by landlords (such as the Applicant) for payment of unpaid rent and other costs against a tenant (such as the Respondents) in respect of a PRT such as this.
8. The Respondents had been validly served with all of the Application papers, and notified of the CMD, but had not lodged representations with the Tribunal, or attended the CMD to provide evidence, and/or make any submission, opposing the order sought. The Tribunal considered the terms of the PRT and

the copy Rent Arrears Statement, as well as the submission made by the Applicant today. Having done so, the Tribunal was satisfied that there is outstanding rent due of £7566.06. Accordingly the Tribunal determined that it was just to make a payment order in the sum of £7566.06.

Decision

9. Accordingly, the Tribunal made an order for payment of the sum of £7566.06.

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 McWilliams

18th January 2022

Legal Member

Date