



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/19/3702

Re: Property at Flat 3/1, 6 Brick Lane, Paisley, PA3 4AE (“the Property”)

Parties:

D & E Properties, Bourteehill Cottage, By Dreghorn, Irvine, KA11 3DA (“the Applicant”)

Ms Jacqueline Leckie aka Bradley, Flat 3/1, 6 Brick Lane, Paisley, PA3 4AE (“the Respondent”)

Tribunal Members:

Lesley Ward (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the respondent shall make payment to the applicant the sum of thirteen hundred pounds (£1350).

1. This was a case management discussion ‘CMD’ in connection with an application in terms of rule 111 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017, ‘the rules’ and s71 of the Private Housing (Tenancies)(Scotland) Act 2016, ‘the Act’.
2. The applicant attended the CMD and was accompanied by Miss Elizabeth Carvill as supporter. The respondent did not attend and was not represented. The tribunal had sight of the sheriff officer’s execution of service dated 31 December 2019 and was satisfied that the respondent had received appropriate notification in terms of rule 24 of the rules. The tribunal proceeded with the CMD in the absence of the respondent in terms of rule 29.
3. The tribunal had before it the following copy documents:

1 **Lesley Ward**

- Application dated 11 November 2019 and received by the tribunal on 18 November 2019.
- Bank statements.
- Model tenancy agreement with details of the agreed terms of the agreement (unsigned).
- Text messages between the parties.
- Email to respondent regarding rent arrears dated 5 November 2019.
- Email from the applicant to the tribunal dated 4 December 2019.

4. Discussion

The applicant stated that the rent arrears have continued to accrue and a further 2 months' rent is due. The sum of £1350 which was outstanding when the application was made is still outstanding. The respondent continues to reside in the property and a separate application for eviction has been made. The applicant stated with reference to the email to the respondent dated 5 November 2019 that the £1350 is made up of rent due on 1 September, 1 October and 1 November 2019. The applicant was seeking an increased sum today but had not lodged an amended rent statement or amended the sum sought. The respondent has refused to sign the private residential tenancy agreement or pay the remainder of the deposit.

5. Findings in fact and law

- The parties entered into a private residential tenancy agreement in July 2019 for let of the property with a monthly rent of £450.
- The respondent failed to make payment of the agreed rent for September October and November 2019 and rent arrears of £1350 have accrued.
- The sum of £1350 remains outstanding.

6. Reasons

This was an undefended application to recover rent arrears arising out of a private residential tenancy. The agreement itself was not signed by the respondent but the applicant was able to provide sufficient evidence to the tribunal regarding the terms of the tenancy. The tribunal was satisfied that a private residential tenancy had been constituted and s3 of the Act makes it clear that writing is not required to constitute a private residential tenancy. The tribunal was not minded to grant an order for more than £1350 as notice of the increased

sum sought had not been intimated on the respondent. The applicant was content with an order for the sum of £1350 and did not wish to adjourn the CMD to amend the sum sought.

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.

30 January 2020

Lesley A Ward Legal Member

Date