

Housing and Property Chamber
First-tier Tribunal for Scotland



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/23/4161

Re: Property at 25 Seafield View, Kirkcaldy, Fife, KY1 1ST (“the Property”)

Parties:

Mr Charles Simms, 28 Cedarhurst Road, Portishead, Bristol, BS20 8HG (“the Applicant”)

Mr Iosif Covaciu, 25 Seafield View, Kirkcaldy, Fife, KY1 1ST (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £2382.74 (TWO THOUSAND THREE HUNDRED AND EIGHTY TWO POUNDS AND SEVENTY FOUR PENCE).

Background

1. An application was received by the Housing and Property Chamber dated 21st November 2023. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 15th January 2024 all parties were written to with the date for the Case Management Discussion (“CMD”) of 4th March 2024 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 5th February 2024.

3. On 17th January 2024, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 17th January 2024.
4. On 20th January 2024, the Applicant emailed the Housing and Property Chamber lodging an up to date rent statement.

The Case Management Discussion

5. A CMD was held 4th March 2024 at 2pm by teleconferencing. The Applicant was present and represented himself. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the CMD.
6. The Tribunal noted that the Respondent had lodged two pages of a Time To Pay Application ("TTPA") offering £100 per month. This had not been crossed over to the Applicant as it was not the full form. The Respondent was written to by the Housing and Property Chamber on 24th January 2024 asking for the Respondent to lodge the full TTPA or it would not be able to be considered by the Tribunal. The Applicant heard this with interest. He wants the Respondent to address the arrears. The Tribunal noted that the TTPA was not shared to the Applicant for consideration as it was not complete. The Tribunal and the Applicant could not assess the affordability without the income and expenditure to know if the offer of payment was a realistic one. The Respondent has failed to respond to the Housing and Property Chamber's email requesting that the full TTPA be lodged. It cannot be relied upon that the Respondent wishes to pursue a TTPA. The Applicant noted that he would have considered it had it been lodged. He simply wants the Respondent to pay the arrears. The Applicant said that so far he has refrained from pursuing an eviction case though he is at the level he could pursue arrears. The Applicant noted that payments have resumed after a period of non payment. The arrears have not accrued further than the level that they were in the application as the Respondent has resumed payments. There have been no offers of payment from the Respondent and no communications from him.
7. The Tribunal was satisfied that the outstanding amount for £2382.74 was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 15th October 2021.
9. The Respondent persistently failed to pay his rent charge of £480 per month. The rent payments are due to be paid on fifteenth day of each month.
10. There have been no offers of payment by the Respondent to address the arrears.

11. The arrears sought total £2382.74.

Decision

12. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £2382.74 (TWO THOUSAND THREE HUNDRED AND EIGHTY TWO POUNDS AND SEVENTY FOUR PENCE).

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.



Legal Member/Chair

4th March 2024

Date