



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)**

**Chamber Ref: FTS/HPC/CV/23/3779**

**Re: Property at Eastside, Sandilands, ML11 9TX (“the Property”)**

**Parties:**

**Mrs Carol Tennant, Eastertown Farm, Sandilands, ML11 9TX (“the Applicant”)**

**Miss Eleanor McTaggart, Eastside, Sandilands, ML11 9TX (“the Respondent”)**

**Tribunal Members:**

**Nicola Weir (Legal Member)**

**Decision (in absence of the Respondent)**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent in the sum of £1,100 should be made in favour of the Applicant.**

**Background**

1. By application received on 26 October 2023, the Applicant applied to the Tribunal for an order for payment of rent arrears amounting to £1,100 against the Respondent. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement and a rent statement (and subsequently an updated rent statement) in respect of the rent arrears.
2. Following initial procedure, on 12 December 2023, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. Notification of the application and details of a Case Management Discussion (“CMD”) fixed for 19 March 2024 was served personally on the Respondent by way of Sheriff Officer on 1 February 2024. In terms of said notification, the Respondent was given a period within which to lodge written representations.

4. No representations were submitted by or on behalf of the Respondent within the timescale permitted. However, by email on the morning of the CMD of 19 March 2024, the Respondent requested a postponement of the CMD on medical grounds. She explained that she did not deny that there were rent arrears owing to the Applicant but that she wanted to raise some issues regarding the letting agent and an opportunity to lodge some evidence with the Tribunal. Given the short timescale available and the sensitive medical information contained in the Respondent's email, it was not circulated to the Applicant for comment. The Legal Member considered that cause had been shown as to why the postponement should be granted and accordingly granted the postponement on 19 March 2024. Parties were notified accordingly and the Legal Member requested a fresh CMD be fixed as soon as possible, given the circumstances.
5. Parties were subsequently notified by email on 5 April 2024 of the fresh date and details for the CMD fixed for 24 April 2024. No representations were lodged by either party prior to the CMD.

### **Case Management Discussion**

6. The Case Management Discussion ("CMD") took place by telephone conference call on 24 April 2024 at 11.30am, attended only by the Applicant, Mrs Carol Tennant. The Tribunal delayed the commencement of the CMD for around 5 minutes to give the Respondent an opportunity to join late but she did not do so.
7. After introductions and introductory remarks by the Legal Member, there was discussion regarding the background to the payment application and the fact that nothing further had been received by the Tribunal from the Respondent since the postponement request was granted previously.
8. Mrs Tennant advised that the tenancy only started in August 2023 and that the October 2023 rent payment which had prompted the Tribunal application was still outstanding in the sum of £1,100. Although rent payments resumed after that and were made on November 2023 (as per the updated rent statement that had been lodged previously), December 2023, January and February 2024, no payments have been made for March or April, as yet. If no payment comes in for April, there will accordingly be 3 months' rent owing, amounting to £3,300.
9. Mrs Tennant confirmed that she herself has not had any direct contact with the Respondent since the September weekend as her letting agent has been communicating with the Respondent on her behalf, although this has not always been easy. She confirmed that the Respondent seems to be living at the Property with her two sons, one of whom is an adult and may have his girlfriend staying too. The letting agent had been trying to get in to do an inspection of the Property and managed to get in on 7 December 2023. At that time, the Respondent had advised the letting agent that she had been really ill and had been dealing with social work and the McMillan nurses. She also said that she had been scammed and that her bank account had been emptied. They have since been told that her benefits were being re-calculated and that payments

towards rent would have to move to the 27<sup>th</sup> of the month, rather than the 11<sup>th</sup> due to the timing of the benefits payments. The February rent payment was not received until 27 February. The Respondent has also said that she is due a discretionary housing payment.

10. Mrs Tennant explained that she had applied to the Tribunal very quickly on the first payment of rent being missed because, although the letting agent had apparently received good references for the Respondent, Mrs Tennant had since been approached by a third party who had informed her that a previous landlord had been left with substantial rent owing by the Respondent.
11. The Legal Member explained to Mrs Tennant that, although she had advised today that the rent arrears had increased since the Tribunal application was submitted, as Mrs Tennant had not notified the Tribunal of this and sought to increase the sum claimed at least 14 days prior to the CMD, the Tribunal could only grant an order today for the original amount of £1,100. Mrs Tennant was referred to the Tribunal Procedure Regulations (Rule 14A) in this regard. Mrs Tennant was given the option of a continuation of the CMD to a further CMD, to allow her time to request to amend the amount claimed and submit evidence of the increased sum owing, and for this to be notified to the Respondent and give her an opportunity to respond to that. Mrs Tennant opted to seek an order for the original amount today and confirmed that she would thereafter intend to lodge a further Tribunal application in respect of further sums owing.
12. The Legal Member, having considered the application, confirmed that the payment order would be granted today in the sum of £1,100. There was brief discussion regarding the process to follow. Mrs Tennant was thanked for her attendance.

## **Findings in Fact**

1. The Applicant is the joint owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 11 August 2023.
3. The rent in terms of the tenancy is £1,100 per calendar month.
4. Rent payments were missed in October 2023 and March 2024 and, as at the date of the CMD, the April payment had not yet been received.
5. The original amount claimed in terms of the application was £1,100, although arrears have increased since.
6. The Respondent currently remains in occupation of the Property.
7. The Respondent has been called upon to make payment in respect of the rent arrears but has failed to do so.

8. The sum of £1,100 is due and resting owing by the Respondent to the Applicant in respect of rent arrears.
9. The Respondent has not lodged written representations opposing the claim and did not attend the CMD.

### **Reasons for Decision**

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, and the oral information given at the CMD by the Applicant. The Respondent did not lodge detailed written representations nor attend the CMD, having been properly and timeously notified of same. Although the Respondent had submitted written representations on the morning of the previous CMD, these were mostly in respect of the Respondent's request for postponement of that CMD for medical reasons. The Respondent did, however, state that she was not denying that the money was owed to the Applicant. She also stated that she wished to lodge some evidence with the Tribunal but nothing further was subsequently lodged.
2. The Tribunal considered that there was no material before it to contradict the information from the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Tribunal had regard to the terms of the tenancy agreement and the rent statements lodged and was satisfied that rent arrears in the sum of £1,100 had accrued during the period of the tenancy and that this sum was due and resting owing in respect of unpaid rent due to the Applicant in terms of this application. It was noted by the Tribunal from the Applicant's oral submissions at the CMD that the rent arrears had now increased as the March 2024 payment had been missed. However, the Tribunal had not received an application from the Applicant to increase the sum claimed in sufficient time for this to be considered at the CMD in terms of Rule 14A of the Tribunal Procedure Regulations.
3. The Tribunal concluded that, in the circumstances, an order in the sum originally sought of £1,100 could properly be made at the CMD today.

### **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.**

**Nicola Weir**

---

**Legal Member/Chair**

**Date - 24 April 2024**