



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising from a tenancy under Section 32 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/CV/21/2128

Re: Property at 35 (Flat 5) Peffer Bank, Edinburgh, Midlothian, EH16 4FE (“the Property”)

Parties:

Whinstane LLP, 21-23 Thistle Street, Edinburgh, Midlothian, EH2 1DF (“the Applicant”)

Mr Usman S Sanusi, 35 (Flat 5) Peffer Bank, Edinburgh, Midlothian, EH16 4FE (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member) and Elizabeth Currie (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that that an Order for payment be granted against the Respondent in the sum of £6,225 to the Applicant and granted time to pay at £300 per calendar month until the full amount has been paid. The first payment must be made no later than 10 days after intimation of the Order.

Background

1. The application was made on 2 September 2021. The Applicant sought an Order for payment in the sum of £8275 plus interest.
2. A Case Management Discussion (CMD) took place on 29 October 2021, when both Parties Representatives participated. After discussion a further hearing was assigned for 12 January 2022 and in the intervening period discussions and negotiations were to take place between the Parties.
3. A Time to Pay Application dated 26 October 2021 was submitted on 6 January 2022. The Applicant’s Representative agreed to the Time to pay instalment on a reduced sum sought of £6,225.

Conference call -12 January 2022

4. Ms Macleod appeared for both Parties. The Respondent participated.
5. The various documents lodged in support of the application and the time to pay application were considered and discussed. A further updated rent schedule was produced and considered.
6. The tribunal was advised as follows:
 - The separate application for an eviction order had been withdrawn by the Applicant as they were content with a payment arrangement.
 - No admission is made by the Respondent that the original Short Assured tenancy between the Parties had become a statutory tenancy following on from a Notice to Quit having been served. Notwithstanding this approach, it was agreed that either way rent was due at £695 per calendar month in advance.
 - The sum sought is £6,225 of rent arrears for the rent due as at 11 December 2021.
 - There had been no significant changes in the income position of the Respondent since the time to pay application had been signed on 26 October 2021. The immigration hearing had taken place on 17 December 2021 and the written decision is awaited, expected around February. Meantime the Social Work Department of the local authority agreed to meet the monthly rental and payments had been made of £2085 and £695. Their position on payment would be regularly reviewed. The Respondent was not liable to pay Council tax as he was classed as a student it is said. His brother is now paying a minimum of £650 per month to support the family. It is expected that his help will continue. It was conceded that the Respondent's income from all sources may be reviewed once the decision of the immigration matter is known. The Respondent was confident of work from the University if successful. He considered he could meet the amount of £300 per month.
 - No interest was being sought.

Findings in Fact

- I. A Short Assured Tenancy was entered into between the Parties on 11 May 2016 to 11 November 2016 and monthly thereafter.
- II. The rent being £695 per calendar month payable in advance. The obligation to pay rent continues .
- III. The unpaid rent due and owing to the Applicant as calculated in the rent schedule produced is £6,225. The total sum due and owing by the Respondent to the Applicant including the rent charged on 11 December 2021.
- IV. An Order for payment is granted in the sum of £6,225.
- V. A time to pay application having been made, is granted at the rate of £300 per calendar month payable until the full amount has been paid. The first payment must be made no later than 10 days after intimation of the Order.

Reasons for Decision & Decision

A payment Order is granted at the Sum of Six Thousand Two Hundred and Twenty-Five Pounds (£6,225) sterling. The First-tier Tribunal for Scotland (Housing and Property Chamber) made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, in the following terms, the Respondent is required to pay the sum of £300 per calendar month until the full amount has been paid. The first payment must be made no later than 10 days after intimation of this Order.

With the benefit of discretionary payments made by the local authority and payments from the Respondent from the money received from a family member, the rent arrears had reduced to £6,225.

On balance and by a margin having regard to all information given including the Applicant's consent to same, the tribunal was prepared to grant the time to pay application. The Respondent's financial position remains precarious.

The Respondent stated he was not liable to pay Council tax as he was classed as a student. The tribunal observes from the documentation lodged however that he is suspended from study due to his immigration status and his liability may need to be checked by him and his legal adviser.

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.

Susan Christie

Legal Member/Chair

12 January 2022
Date