



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 11 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017**

**Chamber Ref: FTS/HPC/CV/18/0377**

**Re: Property at 66 Drumpellier Avenue, Baillieston, Glasgow, G69 7DW (“the Property”)**

**Parties:**

**Miss Claire Pagani, 9 Bredisholm Drive, Baillieston, Glasgow, G69 7HZ (“the Applicant”)**

**Ms Mari McNab, 66 Drumpellier Avenue, Baillieston, Glasgow, G69 7DW (“the Respondent”)**

**Tribunal Members:**

**Eleanor Mannion (Legal Member)**

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

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that**

- **Background**

An application was lodged by the Applicant dated 8<sup>th</sup> February 2018. This application sought an order for rent arrears arising from the tenancy in the property at 66 Drumpellier Avenue, Baillieston, Glasgow, G69 7DW. The tenant in that property was the above Respondent, Marie McNab. The Applicant sought an order for rent arrears under Rule 111 of The First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 (the Chamber Rules). Along with her application, the Applicant lodged a copy of the tenancy agreement, bank statements and a rental statement. The application was sifted by the tribunal and on the 4<sup>th</sup> April 2018, considered complete by the In-House Legal Member.

- **Case Management Discussion**

A Case Management Discussion was convened for 10am on Tuesday 12<sup>th</sup> June 2018 at the Tribunal Centre, 20 York St, Glasgow, G2 8GT. Papers were

served on the Respondent by Sheriff Officers on the 10<sup>th</sup> May 2018. The covering letter from the First Tier Tribunal for Scotland outlined that written representations must be provided by the Respondent to the Tribunal office by the 31<sup>st</sup> May 2018. The letter also set out in bold that a decision may be made at the scheduled Case Management Discussion including the making or refusing of an eviction or payment order.

The Respondent did not in fact provide representations by the 31<sup>st</sup> May 2018 or the date of the hearing itself, namely the 12<sup>th</sup> June 2018. Nor did she attend at the hearing. The hearing was scheduled to being at 10.00am. It was delayed for a further 5 minutes to allow checks to be made to establish if the Respondent intended to attend.

The Applicant was representing herself. She advised that the Respondent is still living in the property and that he has regular contact with her by phone. She confirmed that she advised the Respondent that she was in rent arrears since September 2017, that some payments were made by the Respondent here and there but there continued to be arrears. The monthly rent is £580 per calendar month, payable on the 1<sup>st</sup> of each month. She stated that no rent was paid by the Respondent on the 1<sup>st</sup> October, 1<sup>st</sup> November, 1<sup>st</sup> December 2017 or on the 1<sup>st</sup> January and 1<sup>st</sup> February 2018. It was normally paid into her account by way of bank transfer.

The Respondent has been in receipt of housing benefit but the Applicant believed in September 2017 that she was continuing to receive this but was not paying it to the Applicant. The Applicant contacted Glasgow City Council who are the Local Authority for the above address and asked that all housing benefit payments are made directly to the Applicant. She advised that it was not until Jan 2017 when she received her first payment from Glasgow City Council. The Applicant received the following payments from Glasgow City Council as housing benefit payments for the above address:

19 <sup>th</sup> January 2018	£663.20
16 <sup>th</sup> February 2018	£343.14
16 <sup>th</sup> March 2018	£268.84
4 <sup>th</sup> April 2018	£251.03
13 <sup>th</sup> April 2018	£407.10
11 <sup>th</sup> May 2018	£410.28

The Respondent also made the following payments to the Applicant:

2 <sup>nd</sup> March 2018	£120
16 <sup>th</sup> March 2018	£20
4 <sup>th</sup> May 2018	£60
10 <sup>th</sup> May 2018	£60

The Applicant showed a number of text messages between herself and the Respondent. One such message dated 18<sup>th</sup> November 2018 stated "u [sic] can sing for the windows and doors. I was actually gone [sic] to pay u [sic] this month lol, just spite ure [sic] self, have a nice day, make sure u [sic] give me notice so I can find somewhere else to stay". Further messages indicated that the Respondent would not be paying her rent. More recent text messages

confirmed that she would not pay her rent as she was saving all her money to obtain a new flat and new furniture. She informed the Applicant of this upon receipt of notification of this hearing by the Tribunal office.

The Applicant stated that she wished for an order to be made by the Tribunal in the amount of £2,346.41 which represents rent arrears to the date of the hearing minus any payments received as housing benefit from Glasgow City Council or from the Respondent.

- **Findings in Fact**

The Tenancy began on the 1<sup>st</sup> October 2016 for a period to the 1<sup>st</sup> April 2017. The Tenancy Agreement provided that if the Tenancy was not brought to an end by either party on the 1<sup>st</sup> April 2017, it would continue on a month to month basis thereafter.

An AT5 Notice was provided to the Respondent prior to the Tenancy beginning.

The rent payable under the Tenancy Agreement is £580 per calendar month, to be paid on the 1<sup>st</sup> of each month.

Rent arrears began to build up from 1<sup>st</sup> September 2017. A payment of £500 was received on the 30<sup>th</sup> September 2017. No rental payment was received on the 1<sup>st</sup> October, 1<sup>st</sup> November, 1<sup>st</sup> December 2017 or 1<sup>st</sup> January or 1<sup>st</sup> February 2018. Glasgow City Council made a housing benefit payment directly to the Applicant on the 19<sup>th</sup> January 2018 of £663.20

Rental arrears continue to accrue and upon receiving correspondence from the Tribunal indicating that a hearing was scheduled, the Respondent indicated that she would not make any further payments and instead save her money for a new flat and new furniture.

**Reasons for Decision**

Section 71 of the Private (Housing Tenancies) (Scotland) Act 2016 sets out the jurisdiction of the First-tier Tribunal to hear this case:

*Section 71 First-tier Tribunal's jurisdiction*

*(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*

The Respondent has been made aware that rent is outstanding but has failed to make good the rent due and owing to the Applicant. The Applicant is entitled to seek an order for payment.

**Decision**

After considering the papers and the submissions made by the Applicant at the hearing on 12<sup>th</sup> June 2018, it is my decision to grant an order in the sum of £2,346.41 as craved.

## 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

E Mannion

Legal Member/Chair

Date

12/6/18