



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/19/0998

Re: Property at Flat 3/1, 21A Park Avenue, Dundee, DD4 6NB (“the Property”)

Parties:

Northern Housing Company Limited, 1 Explorer Road, Dundee, DD2 1EG (“the Applicant”)

Mr Christopher Rose, Flat 3/1, 21A Park Avenue, Dundee, DD4 6NB (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member)

Summary of Discussion

This Application related to an order for payment and had been discussed at a previous case management discussion (CMD) on 6th June 2019. At that time the Application had been continued to allow the Respondent to make an appointment with the Applicant to agree a mutually agreeable payment plan for the payment of rent arrears said to be due and to adhere to the terms of the plan until the next CMD.

This Application is conjoined with HPC/CV/19/0997, which is an Application for a possession order for the property. Both Applications were continued to a CMD on 6th September 2019.

At the CMD on 6 September 2019 when the Application first called, only the Applicant’s solicitor Ms Morrison was present. The Respondent attended after 10.15am having gone to the venue where the first CMD had been held.

The Tribunal had sight of the Application, the tenancy agreement, and an up to date rent statement. There had been two applications to amend the amount being sought, which had been intimated to the Respondent. The amount being claimed by the Applicant in respect of unpaid rent said to be lawfully due was £2329.79.

The Tribunal was advised by Ms Morrison for the Applicant that the Respondent had attended with the Applicant in the week after the first CMD, had paid £400 that day and had agreed a payment plan to pay £500 towards the arrears on the last day of each month but had not made any payments in terms of the plan. The only payment received since the last CMD had been the £400. Ms Morrison moved the Tribunal to grant a payment order in the sum of £2329.79 which she said represented the rent arrears due by the Respondent to the Applicant as at 6th September 2019.

The Respondent did not dispute what was said regarding the payment plan and said that he simply could not afford the rent and arrears repayments. He had not calculated the arrears in detail but did not seek to challenge them or to disagree that he was in arrears with rent payments. He advised the Tribunal that he was self-employed and simply could not make the payments required by way of monthly rent and arrears. He did not dispute that the rent arrears as stated were lawfully due.

The question of a Time to Pay Application was raised by the Tribunal but the Respondent could not recall if he had received such a form and the Tribunal could not issue one to him on 6th September due to a lack of printing facilities. He did advise the Tribunal that he could not give detailed information regarding his finances in any event.

Findings in Fact

1. The Applicant and Respondent entered into a tenancy agreement for the property with effect from 15th October 2010.
2. The rent payable as stated in the agreement lodged with the Tribunal was £330 per month initially but increased throughout the tenancy and stood at £399.04 per month at the time of the Application.
3. The Respondent fell into arrears of rent at the property and these amount to £2329.79.
4. The sum of £2329.79 is lawfully due by the Respondent to the Applicant in respect of rent arrears at the property.

Reasons for Decision

The Tribunal was satisfied that the sum of £2329.79 is lawfully due by the Respondent to the Applicant in respect of arrears of rent at the property.

Decision

The Tribunal made a payment order in the sum of £2329.79 against the Respondent and in favour of the Applicant.

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.

V. Bremner

Legal Member/Chair

Date

6th September 2019.