



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 (“the Act”) and Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/20/1088

Re: Property at 10 New Holygate, Broxburn, EH52 5RN (“the Property”)

Parties:

Ms Marell Gillespie, Amusa Residence, C21 Via degli Angioini, Marina di Caulonia, 89040, Italy (“the Applicant”) per her agents, TC Young, solicitors, 7 West George Street, Glasgow, G2 1BA (“the Applicant’s Agents”)

Miss Alison Muir, 10 New Holygate, Broxburn, EH52 5RN (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment of TWO THOUSAND NINE HUNDRED AND EIGHTY POUNDS (£2,980.00) be granted.

Background

1. By application received on 16 April 2020 (“the Application”), the Applicant’s Agents on behalf of the Applicant made an application to the First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Chamber”) for a payment order for rent due arising from a private residential tenancy agreement between the Parties. The Application comprised an application form, copy private residential tenancy agreement showing a monthly rent of £575.00 and rent statement showing rent arrears amounting to £2,150.00 as at 16 April 2020.

2. On 19 May 2020, a legal member of the Chamber with delegated powers of the Chamber President accepted the Application and a Case Management Discussion (“CMD”) was fixed for 10 August 2020 at 14.00 by telephone conference call. The Application was intimated to the Respondent. The CMD was intimated to both Parties.
3. By email dated 22 July 2020, the Applicant’s Agent intimated to the Tribunal and the Respondent that the rent due and owing had increased to £2,980.00 and amended the Application to this extent.
4. By application for a Time to Pay Direction, the Respondent admitted the sum due and owing and requested that she be allowed time to pay at the rate of £20.00 per fortnight. The Time to Pay Direction application was intimated to the Applicant’s Agents who opposed it on behalf of the Applicant.
5. The CMD took place on 6 August 2020 at 14.00. The Applicant did not take part and was represented by Ms. Kirsty Morrison of the Applicant’s Agents. The Respondent took part. The Tribunal explained the role of the Tribunal and its powers within the Scottish Courts Administration. The Tribunal explained the purpose of the CMD in terms of Rule 17 of the Rules.

Summary of Discussion

6. The Tribunal advised the Parties that it had read and was familiar with all of the background papers. The Tribunal asked the Applicant’s Agent to confirm the order sought. The Applicant’s Agent confirmed that an open order for payment is sought for rent amounting to £2,980.00.
7. The Respondent agreed that rent amounting to £2,980.00 is due and owing and explained that she had lost her employment and is unable to make payment.
8. The Tribunal dealt with the Time to Pay Direction application explained to the Respondent that the amount offered is too low to ensure that payment will be made within a reasonable timescale of up to one year. The Respondent explained that she is unable to offer a higher payment due to her unemployment and is unable to make payment.

Findings of the Tribunal.

9. From the Application and the CMD, the Tribunal found the following facts to be established: -
- i) There is a private residential tenancy agreement between the Parties;
 - ii) The monthly rent is £575.00;
 - iii) Rent arrears amounting to £2,980 are due and owing by the Respondent to the Applicant and
 - iv) The Applicant is unable to offer instalment payments to pay the sum due within a reasonable timescale.

Decision of the Tribunal and Reasons for the Decision.

10. Having found the sum sought is due and owing, the Tribunal had regard to Rule 17(4) of the Rules which states that the Tribunal “may do anything at a case management discussionincluding making a decision” and so proceeded to make an order for payment.

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.

Karen Moore

Legal Member/Chair

10 August 2020
Date