



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/1728

Re: Property at 22a Drummond Place, Edinburgh, EH3 6PN (“the Property”)

Parties:

Mrs Lois Bayne-Jardine, Humble Mains, Humble, West Lothian, EH36 5PW (“the Applicant”)

Mr Angus Stewart, 22a Drummond Place, Edinburgh, EH3 6PN (“the Respondent”)

Tribunal Members:

Rory Cowan (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a Payment Order in the sum of £10,000 should be granted.

- Background

By application dated 20 July 2021 the Applicant seeks a Payment Order from the Respondent in the sum of £10,000 (the Application). With the Application, the Applicant lodged the following documents:

- 1) Copy Lease
- 2) Copy bank statements.

Following a further information request from Tribunal administration, the Applicant lodged a rent statement. A Case Management Discussion was fixed for 29 September 2021 to be dealt with by way of conference call. In advance of the CMD the Respondent sent a written response by email dated 15 September 2021.

- The Case Management Discussion

The Applicant appeared and represented herself. Likewise, the Respondent appeared and represented himself. The Applicant indicated that, despite the terms of the Application, the arrears owed by the Respondent now amounted to £12,500 and, assuming no payment, would increase further on 3 October 2021 to £13,750. Whilst a rent statement was lodged by email on 4 August 2021, no application to amend the sum sued for in terms of Rule 14A was made in that email, nor was any such an application intimated to the Respondent.

The Respondent indicated that he accepted that he was in arrears of rent and that due to issues associated with his business and his bank. Notwithstanding he indicated that he would be in a position to settle all sums due to the Applicant no later than 24 October 2021. He proposed continuing the CMD until after that date to allow payment to be made. If that were agreed to, he indicated that he would have no objection to the sum sued for being increased to £13,750. In response to this offer, the Applicant indicated that the Respondent had promised settlement on many previous occasions and that he had defaulted on all of them. She therefore was not agreeable to the CMD being continued and would prefer a Payment Order being granted in the sum of £10,000 being the arrears due as at 20 July 2021 rather than seek to continue the CMD and have the sum sued for amended to reflect the increased arrears and that, if required, she would raise a further application for the balance of any further arrears that may be due. The Respondent indicated that, in those circumstances, he was content with a Payment Order being issued in the lesser sum. There was an additional discussion about whether a formal order that enforcement of any Payment Order should be delayed until after 24 October 2021 may be appropriate, but as no Payment Order can be issued until after 30 days has passed from the date of the CMD (which would be after 24 October 2021 anyway), no such order is required in order to allow the Respondent the time to make his proposed payment by 24 October 2021.

- Findings in Fact and Law

- 1) The Applicant and Respondent entered into a tenancy agreement relative to the Property which commenced on 3 August 2020.
- 2) In terms of the tenancy agreement between the Applicant and the Respondent the rent payable was £1250.00 per month
- 3) As at 20 July 2021, the Respondent was in rent arrears to the extent of £10,000.
- 4) The Applicant is entitled to a Payment Order in the sum of £10,000.

- Reasons for Decision

The arrears as at the date of lodging the Application (20 July 2021) being not in dispute and agreed by the Respondent, the Applicant was entitled to a Payment Order in that sum.

- Decision

A Payment Order in the sum of £10,000 being the arrears due as at 20 July 2021, should be granted.

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.

Rory Cowan

Legal Member/Chair

29 September 2021

Date