



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

Chamber Ref: FTS/HPC/CV/21/3044

Re: Property at 11 Wood Street, Coatbridge, North Lanarkshire, ML5 1LX (“the Property”)

Parties:

Mr David Murray, 11 Kilmore Grove, Coatbridge, North Lanarkshire, ML5 5JU (“the Applicant”)

Mrs Sheree Blair, 11 Wood Street, Coatbridge, North Lanarkshire, ML5 1LX (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment from the Respondent for £1817.35 (ONE THOUSAND EIGHT HUNDRED AND SEVENTEEN POUNDS AND THIRTY FIVE PENCE)

1. An application was received by the Housing and Property Chamber dated 7th December 2021. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 9th February 2022 all parties were written to with the date for the Case Management Discussion (“CMD”) of 24th March 2022 at 2pm by

teleconferencing. The letter also requested all written representations be submitted by 2nd March 2022. The Respondent

3. On 9th February 2022, sheriff officers served the letter with notice of the hearing date and documentation upon both of the Respondents. This was evidenced by Certificate of Intimation dated 9th February 2022.

The Case Management Discussion

4. A CMD was held on 24th March 2022 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr Paul Clark, Aquila Management Services. The Respondent was not present but was represented by Mr Jim Melvin, Coatbridge Citizens Advice Bureau.
5. Mr Clark stated that he still was seeking an order for the amended amount of £1817.35. He said that the Respondent was still in the Property but that there had not been full rent payments. A Notice to Leave was issued on 1st December 2021. It expires on 4th June 2022. This is solely on the basis of rent arrears as the Respondent has maintained the Property well. He advised that all the Pre Action Requirements have been issued.
6. Mr Melvin said that he had emailed the Tribunal to advise there were several points that would assist the Respondent in addressing the arrears
 - a. that a Discretionary Housing Payment (“DHP”) application had been made in February. It has come to light that the application has only been put in on the day before the hearing on 23rd March 2022. However, he is hopeful that he will be able to assist the Respondent to get a back date payment to September 2021 and that the DHP will continue into the next financial year. This should fill the shortfall in rent from the Housing Element that is not paying the full amount of the rent. This will be equivalent of £100 per month. Mr Clark estimated that it will take 3 – 4 weeks to be processed.
 - b. The Respondent has applied for Personal Independence Payment (“PIP”). While it has been refused an appeal has been lodged. If granted at the appeal there should be a significant backdate which would be able to address the arrears.
 - c. The Respondent is subject to a legal matter which may resolve with a compensatory payment.
7. Mr Clark noted that there had been some issues with the Housing Element of Universal Credit. The direct payments to the Applicant for November 2021, December 2021 and February 2022 stopped and were paid directly to the Respondent. The Respondent had not paid the Housing Element to the Applicant as she had not been aware of the extra payment being made to her. There was a change to the Applicants benefits in January 2022 due to a backdate of holiday pay being paid to the Respondent. This was paid to the Respondent in a lump sum. She was not entitled to Universal Credit that month.

8. The Tribunal noted that the increase in the sum sought was sent to the Tribunal 13 days prior to the hearing which is 1 day short of the required time period. However, as the Respondent was represented it was put to Mr Melvin if there was any issues regarding increasing the sum. Mr Melvin confirmed that there were no issues regarding the increasing of the sum. He has been able to speak to the Respondent about it and the sum is not disputed.
9. The Tribunal noted that Mr Melvin was working closely with the Respondent to address the arrears. However, the Tribunal did not consider it appropriate to continue to a further CMD or adjourn to a hearing as all the information that Mr Melvin had provided did not suggest that there was any monies guaranteed to the Respondent that would be able to be paid to address her arrears. Though it might be likely that the Respondent will get a DHP it was not guaranteed. It would not address the full amount of the arrears with an estimated maximum of £700. The PIP award and legal compensation were not settled. In addition he had told the Tribunal that the Respondent had received a payment of backdated holiday pay but that she did not make a payment to her rent with it or a payment to the arrears. In addition there was a period where direct payments stopped and the Respondent had failed to pass that money on to the Applicant which was legally due to him. The Tribunal considered that as the full rent charge was not being paid and there was no actual offer of payment that could address the arrears now or in a definite future date it was reasonable to grant the Order.
10. The Tribunal was satisfied that the outstanding amount for £1817.35 was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

11. A Private Rented Tenancy Agreement commenced on 14th September 2020.
12. The Respondent has persistently failed to pay her rent charge of £450 per month. The rent payments are due to be paid on 14th day of each month.
13. There are no clear offers of payments to address the arrears.
14. The arrears sought total £1817.35.

Decision

15. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £1817.35

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.

Gabrielle Miller

Legal Member/Chair

Date: 30 March 2022