



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/2267

Re: Property at 41 Moredunvale Way, Edinburgh, EH17 7RF (“the Property”)

Parties:

Mrs Jane-Lynne Reilly, 9 Blaiklands Crescent, Coatbridge, ML5 2FF (“the Applicant”)

Mrs Lynne McLauchlan, C/O 50 Main Street, Crossgates, Cowdenbeath, KY4 8AJ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a payment order in the sum of Three thousand five hundred pounds (£3500) Sterling

Background

- 1 By application to the Tribunal the Applicant sought an order for payment of against the Respondent in respect of outstanding rent arrears. In support of the application the Applicant provided the following documentation:-
 - (i) Short Assured Tenancy Agreement between the parties.
 - (ii) Rent Statement.
 - (iii) Excerpt bank statements.

- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for 6 December 2022. A copy of the application paperwork together with notification

of the date and time of the Case Management Discussion and instructions on how to join the teleconference was intimated to the Respondents by Sheriff Officers.

- 3 Following service of the application the Tribunal received a time to pay application from the Respondent offering payments at the rate of £200 per month.

Case Management Discussion

- 4 The Case Management Discussion took place by teleconference on 6 December 2022. The Applicant was in attendance. The Respondent was not present. The Tribunal noted that they had received service of the application paperwork together with notification of the date and time of the Case Management Discussion and therefore determined to proceed in their absence.
- 5 The Legal Member explained the purpose of the Case Management Discussion and asked the parties to address her on their respective positions.
- 6 The Applicant advised that she sought a payment order for £4000 in outstanding rent arrears. She noted the Respondent's offer of £200 per month and advised that if that was all she could afford then so be it, however she had some doubts, having noted holidays that the Respondent had been on which indicated she may be able to pay more. The Respondent advised that £200 per month was all she could pay at the moment. The holiday in question had been the only holiday she had been on post-Covid and it had been paid for before she got into this mess. The Respondent further advised that she had paid a deposit of £500 in instalments after moving into the tenancy. The Applicant could not recall this. The Legal Member asked if the Applicant would wish an opportunity to clarify whether a deposit had been received however she advised that she would be unable to evidence this and would therefore have to accept the Respondent's position on the matter. The Applicant therefore confirmed that she would be content with an order in the sum of £3500 on that basis. The Legal Member further clarified that the tenancy had in fact commenced in May 2009, albeit the tenancy agreement provided to the Tribunal was dated 2016. There had been numerous tenancy agreements signed during the course of the tenancy.

Findings in Fact and Law

- 7 The Applicant entered into a Short Assured Tenancy Agreement with the Respondent which commenced on or around May 2009.
- 8 The tenancy terminated on or around 5 September 2022 when the Respondent vacated the property.
- 9 In terms of Clause 4 of the said tenancy agreement the Respondent undertook to pay rent at the rate of £650 per month. The rent was subsequently increased to £700 per month in March 2020.

- 10 As at the date of termination of the tenancy arrears in the sum of £4000 were outstanding.
- 11 The Respondent paid a deposit of £500 to the Applicant which should be deducted from the sum outstanding.
- 12 The Respondent is therefore liable to pay the sum of £3500 to the Applicant.

Reasons for Decision

- 13 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. There were no facts in dispute that would require a hearing to be fixed.
- 14 Based on its findings in fact the Tribunal accepted that the Respondent was liable to pay the sum of £3500 to the Applicant in accordance with her contractual obligations under the tenancy agreement in respect of the payment of rent. The Tribunal therefore determined to make a payment order for that sum. The Tribunal was however satisfied that the offer of £200 per month which had been made by the Respondent was reasonable, on the basis that the arrears would be cleared in under two years. The Tribunal therefore made a time to pay direction in the sum of £200 per month.

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.

Ruth O'Hare

6 December 2022

Legal Member/Chair

Date

