



**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/22/3456

Re: Property at 9 Petrie Way, Arbroath, DD11 4GS (“the Property”)

Parties:

Mr Wayne Antony Strachan, 12 Elliot Street, Arbroath, DD11 3BY (“the Applicant”)

Miss Jill Strachan, 123 Millgate Loan, Arbroath, DD11 1QQ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £9000 (NINE THOUSAND POUNDS).

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) which was dated 20th September 2022. The Applicant is seeking an order for payment of the sum of £5000 in terms of s16 of the Housing (Scotland) Act 2014.
2. On 28th November 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 15th March 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 19th December 2022.

3. On 29th November 2022, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 29th November 2022.
4. On 14th December 2022, the Applicant's solicitor emailed the Housing and Property Chamber increasing the amount sought from £5000 to £6500.
5. On 13th January 2023, the Respondent's solicitor emailed the Housing and Property Chamber asking for a postponement of the CMD on 18th January 2023. The Respondent's solicitor stated that they had not been given full instructions as they had only just been appointed. The Tribunal was emailed the postponement request on 17th January 2023. The postponement request was granted.
6. On 31st January 2023, the Applicant's solicitor emailed the Housing and Property Chamber to say that the same solicitor had emailed their office on 5th May 2022 in relation to the Respondent's rent arrears.
7. This case was conjoined with the case FTS/HPC/EV/3452, however, the Respondent was evicted from the Property on 16th May 2023.
8. A CMD was held on 15th March 2023 at 10am by teleconferencing. The Applicant was represented by Mr Rory Mellis, Solicitor, Thorntons WS. The Respondent was not present or represented. The Tribunal proceeded in terms of Rule 29 of the Rules. Mr Mellis said that the arrears had now risen from the amended amount of £6500 to £8000. He motioned to the Tribunal to amend to this amount. The Tribunal noted that this was not possible as Rule 13 states that amendments must be made 7 days in advance of a CMD or hearing. There have been no payments made by the Respondent. Mr Mellis said that the Applicant and Respondent were brother and sister. He said that the relationship became acrimonious after the Respondent stopped paying the rent. Mr Mellis explained that there is no rent account as such. The Applicant had kept a record of the Respondent's payments. Mr Mellis said that there had been no contact from the Respondent for some time. Mr Mellis said that the Applicant believed that the Respondent was working prior to 2021. He believes that she may not be working now. The Applicant has not applied for direct payments from the DWP as he does not know details of any benefits awarded. The Tribunal was not satisfied that it could issue a payment order without evidence of the payments in the form a rent account. The Tribunal will continue to a further CMD for the Applicant to lodge a rent account. Mr Mellis will address any increase in the amount sought within the specified time.
9. On 14th June 2023, Mr Mellis emailed the Housing and Property Chamber to amend the sum sought in the application to £9000. A rent account for the period 1st November 2021 to 1st May 2023 was attached. Mr Mellis also included the Respondent's new address.

Case Management Discussion

10. A CMD was held on 28th June 2023 at 2pm by teleconferencing. The Applicant was represented by Mr Rory Mellis, Solicitor, Thorntons WS. The Respondent was not present or represented. The Tribunal proceeded in terms of Rule 29 of the Rules.
11. The Tribunal noted that in Mr Mellis's email of 14th June 2023 he gave the new address of the Respondent. The Tribunal was concerned that the Respondent had been written to at her previous address. However, the Respondent's solicitor had been sent the CMD note by both post and email. Mr Mellis's email had been also forwarded to the Respondent's solicitor by email. As there was nothing to indicate that Mr Wheelan had withdrawn from acting for the Respondent it was reasonable for the Tribunal to conclude that the Applicant was aware of the CMD and the amendment of the amount sought.
12. The Tribunal was satisfied that the amount of £9000 was due to the Applicant from the Respondent.

Findings in Fact

13. The parties entered into a Short Assured Tenancy on 9th April 2015 for a 12 months period and continued on a month to month basis thereafter. An AT5 was signed by both parties on 25th March 2015. The rent payments of £500 were due by the 1st day of each month. The rent was reduced from £550 to £500 on 1st January 2021.
14. The Housing and Property Chamber received an application dated 20th September 2022.
15. The Respondent has persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has risen to £9000, beyond that which was sought in the application.
16. The Respondent was evicted from the Property on 16th May 2023.
17. There has been no offer of payment towards the arrears from the Respondent.

Reasons for Decision

18. There are no known outstanding Universal Credit issues.
19. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 1st November 2021 to 1st May 2023 in which payments have been missed to amount to £9000 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that

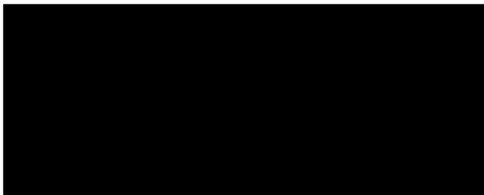
the Respondent had persistently not paid the rent and was in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £9000.

Decision

20. The Applicant is entitled to an order of payment of £9000. The Order was granted against the Respondent.

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.



28th June 2023

Legal Member/Chair

Date