



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) in terms of Rule 17 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”) In respect of an application under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 (“the Act”) and Rule 111 of the Rules

Chamber Ref: FTS/HPC/CV/22/3510

Re: Property at Craigievar House, 76/16 Craigmount Brae, Edinburgh, EH12 8ZQ (“the Property”)

Parties:

Castle Rock Edinvar In Association With Places for People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”) per their agents, Patten and Prentice LLP, 2 Ardgowan Square, Greenock, PA16 8PP (“the Applicant’s Agents”)

Mr Scott Fairley, Craigievar House, 76/16 Craigmount Brae, Edinburgh, EH12 8ZQ (“the Respondent”)

Tribunal Members:

Karen Moore (Legal Member) and David Fotheringham (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for payment in the sum of ELEVEN THOUSAND TWO HUNDRED AND SEVENTY FIVE POUNDS AND SIXTY PENCE STERLING (£11,275.60) be granted.

Background

1. By application received on 27 September 2022 (“the Application”), the Applicant’s Agents applied to the Tribunal for an Order for payment of rent arrears of £10,863.60 arising from a private residential tenancy agreement between the Parties. The Application comprised a copy of private residential tenancy agreement between the Parties, copy rent statement showing rent arrears since June 2021 and copy correspondence to the Respondent satisfying the pre-action requirements.
2. The Application was accepted by the Tribunal Chamber and a Case Management Discussion (the “CMD”) was fixed for 26 January 2023 at 10.00 by telephone conference.

CMD

3. The CMD took place on 26 January 2023 at 10.00 by telephone conference. The Applicant did not take part and was represented by Miss Melissa Wilson of Applicant's Agents. The Respondent was not present and was not represented. The Respondent did not submit written representations to the Tribunal. Prior to the CMD, the Applicant's Agents amended the sum sought to £11,275.60.
4. Prior to the CMD, the Respondent contacted the Applicant's Agents in respect of the proceedings and so the Tribunal is satisfied that the Respondent is aware of the CMD and proceeded in his absence.
5. Miss Wilson advised the Tribunal that the Respondent had had a tenancy of the Property since May 2021 at a rent of £665.00 per month and had not made payment since June 2021, although housing benefit payments of £253.00 per month were made on his behalf from April to December 2022. Attempts have been made by the Applicant to encourage the Respondent to pay, with a payment plan being arranged and not adhered to by him. Miss Wilson advised the Tribunal that the Respondent had recently advised the Applicant and the Applicant's Agents that he is now unemployed and in receipt of benefits of £665.00 per month. He offered to pay that sum and a further £300.00 per month towards the arrears. She submitted that, as the arrears now amount to £11,275.60, the Respondent's offer is not acceptable to the Applicant as it is not realistic or tenable given his income.

Findings in Fact.

6. From the Application, the documents lodged and the CMD, the Tribunal made the following findings in fact:-
 - i) There is a private residential tenancy of the Property between the Parties at a monthly rent of £665.00 which began on 12 May 2021;
 - ii) The Respondent has not paid rent since June 2021;
 - iii) Housing benefit payments of £253.00 per month were made on his behalf from April to December 2022;
 - iv) Rent arrears of £11,275.60 have accrued;
 - v) The Respondent's offer to pay £965.00 per month towards the arrears and rent is not realistic.

Decision

7. Having made those findings, 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 in the sum of £11,275.60.

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.

K. Moore

Legal Member: Karen Moore

23 January 2021
Date