



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/22/3583

Re: Property at 6 Wallace Avenue, Dundonald, KA2 9HU (“the Property”)

Parties:

Mr John Mulhern, 58 Tantallon Drive, Paisley, PA2 9HS (“the Applicant”)

Ms Andrea Miller, Ms Tracie Lorraine Bicker, 6 Wallace Avenue, Dundonald, KA2 9HU; 6 Wallace Avenue, Dundonald, KA2 9HU (“the Respondent”)

Tribunal Members:

Jan Todd (Legal 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 of the sum of £2,433 be granted to the Applicant.

- **Background**

1. This was the first case management discussion (CMD) in respect of an application by the Applicant dated 25th September 2022 for an order for payment of arrears of rent from the Respondents who are the Tenants in a Tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

- A copy of a Tenancy Agreement dated 3rd March 2020 between the Applicant as Landlord and the Respondents who are jointly the Tenants.
- Statement of rent arrears showing a sum outstanding as at 3rd September £2750

- Letters to the Tenants
 - Copy redacted bank statements
2. The case management discussion (CMD) proceeded today by way of teleconference.
 3. Service was validly affected on the Respondent by Service by Sheriff Officers who served the papers on the Respondent on 16th December 2022 by letterbox service.
 4. The Tribunal sent a direction asking for clarification of the rent due and whether the tenancy was ongoing.
 5. The Applicant responded to the direction on 25th January 2023 advising that the tenancy was continuing, and submitting a new rent statement showing rent due up to and including January 2023 and further payments made showing a current balance due of £2,433. The Applicants also advised they have served a notice to leave which has now expired and made an application for eviction with the Tribunal as the tenants have not left.
- **The Case Management Discussion**
 1. The CMD took place by teleconferencing and the Legal Member waited until 14.10 to see if the Respondents were going to join the call. The Respondents did not join and were not represented at the CMD. The Respondents have not lodged any written submissions for the Tribunal to consider.
 2. The legal member made introductions and explained the purpose and order of proceedings also advising that the Tribunal could make a decision after a CMD which it could after a hearing if satisfied it was appropriate to do so.
 3. The Applicant and his wife and representative Ms Vivienne Mulhern both attended on the call. The legal member considered it appropriate to continue with the CMD given that intimation had been given to the Respondents and they have not responded in writing or requested any postponement of today's CMD.
 4. Ms Mulhern spoke and advised that they were seeking an order for payment of the sum of £2,433 being the rent due as at end of January. She advised that the tenants moved into the Property in 2020 but arrears started accruing from January 2022 she advised that both tenants have paid sums at different times as per the rent statement but currently and for the last few months they have only received some rent from Ms Miller and she advised latterly this has been from direct Universal Credit payments. As these payments do not meet the full rent due the arrears are increasing. She advised they have not received any rent since last September from Ms Bicker although Ms Miller made several payments towards arrears in November 2022.

Findings in Fact

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 3rd March 2020.

2. The Rent due in terms of the lease is £500 per calendar month payable in advance on the third of each month.
3. The tenancy is ongoing although the Applicants have served a notice to leave and are seeking an eviction order as the tenants have not left.
4. The rent outstanding at 24th January 2023 when the latest statement was lodged is £2,433.

- **Reasons for Decision**

5. The parties have entered into a lease where the Respondents have leased the Property from the Applicant and have agreed to pay £500 per month in rent jointly and severally.
6. The Respondents have failed to pay the full rent due. The Respondents have made various payments each but have fallen short of paying the full rent since January 2022. One of the Respondents is receiving universal credit and this is being paid directly to the Applicants but does not meet the full rent due. The Respondents are jointly and severally liable for payment of the full amount of rent which is £500 in terms of the lease.
7. The Respondents were served notice of this application by sheriff officer on 16th December 2022 and have not made any written representations or attended this CMD. The Applicants provided a revised rent statement confirming rent had decreased to £2433 and this has been copied to the Respondents.
8. The Tribunal accepts the written evidence and verbal statements made by the Applicants who the Tribunal found clear and credible in their evidence that the rent outstanding as of 24th January 2023 is £2433. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

- **Decision**

An order for payment of the sum of £2,433 is 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.

J. Todd

Legal Member/Chair

Date: 9th February 2023