



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/22/3803

Re: Property at 101 Birkenside, Gorebridge, EH23 4JF (“the Property”)

Parties:

Mrs Hazel Wilson, Mr Robert Wilson, 10 Attlee Crescent, Dalkeith, EH22 5RH (“the Applicant”)

Mr Dean McGill, Mrs Rachel McGill, 101 Birkenside, Gorebridge, EH23 4JF (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £1529.27 (ONE THOUSAND FIVE HUNDRED AND TWENTY NINE POUNDS AND TWENTY SEVEN PENCE).

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”). The Applicant is seeking an order for payment of the sum of £2129.27 in terms of s16 of the Housing (Scotland) Act 2014.
2. On 1st December 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 25th January 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 22nd December 2022.

3. A CMD was held on 25th January 2023 at 2pm by teleconferencing. The Applicant was represented by Ms Charlotte Grey, Professional Property Letting. The Respondents attended and represented themselves. Mr McGill spoke on behalf of the Respondents. Ms Grey told the Tribunal that the outstanding arrears amount to £1529.27. £600 was paid on 20th January 2023. She noted that this is less than 3 months rent arrears. She said that there had been extra payments from Universal Credit of £94.21 per month made in January – May 2022 with two payments being made in March 2022. She believed that the rent payments were being paid by the Respondents. Mr McGill said that the payments were being made directly by Universal Credit. He has emailed on several occasions to enter into a payment plan but has had no response. Mr McGill admitted the debt. A discussion followed regarding a Time To Pay Direction (“TTPD”). It was explained that this would allow the Respondents to pay up the outstanding arrears. The Tribunal noted that the Respondents will need to be active in applying for the TTPD. They will need to contact the Housing and Property Chamber by email or telephone to request that a TTPD be sent to them. The Tribunal noted they may wish to get money advice to assist them in completing the TTPD. Ms Grey said that she would Google local money advice services and email the results to the Respondents. The Tribunal noted that if the Respondents are looking to seek money advice to help them complete the TTPD then this appointment will need to be made and attended in advance of the next CMD so that the Applicant can consider the contents of the TTPD. Once the TTPD has been completed it will need to be lodged with the Housing and Property Chamber. The Applicant and Tribunal will then be sent a copy of it. If the Applicant agrees to the amount offered then the case will be dealt with administratively and will not proceed to the CMD (though the eviction case will still proceed). If the amount offered is not accepted by the Applicant then the case will proceed to the CMD, along with the eviction case. The Tribunal noted that a TTPD allows for the outstanding amount to be paid in instalments. Should those instalments stop before the debt is repaid then the Applicant is entitled to a full order for the remaining amount. The Tribunal also noted that should the Respondents decide not to proceed with a TTPD it will be most likely that at the next CMD the Tribunal will grant the full order as the debt has been admitted. The Respondents understood these points. The case was adjourned to a further CMD to allow for a TTPD considered by the Respondents. If wishing to proceed then the Respondents was to lodge the completed TTPD to allow it to be considered by the Applicant.
4. This case should be read in conjunction with FTS/HPC/EV/22/3801.

Case Management Discussion

5. A CMD was held on 17th April 2023 at 10am by teleconferencing. The Applicant was represented by Ms Charlotte Grey, Professional Property Letting. The Respondents attended and represented themselves. Mr McGill spoke on behalf of the Respondents.
6. Ms Gray told the Tribunal that the arrears had risen to £2129.27. However, from discussing this point further it transpired that the rent payments are paid in full by Universal Credit at £600 per month. It is, however, paid on 20th each month

when the rent is due on 1st each month. This months rent payment has not yet been paid but is expected to be paid on 20th April which will return the arrears to £1529.27.

7. Mr McGill told the Tribunal that he has not been able to get money advice yet as he has been trying to deal with an issue with his gas bill. He does not dispute that the amount due of £1529.27 is due but that he has no means to pay it currently though his partner is returning to work soon.
8. The Tribunal was satisfied that the amount of £1529.27 was due to the Applicants from the Respondents.

Findings in Fact

9. The parties entered into a Short Assured Tenancy on 1st March 2017 until 1st September 2017 and on a month to month basis thereafter. The lease was signed on 1st March 2017. An AT5 was signed by both parties on the same date as the lease. The rent payments of £600 are due by the 1st day of each month.
10. The Housing and Property Chamber received an Application on 17th October 2022.
11. Mr McGill admitted that the amount of £1529.27 was due to the Applicants from the Respondents. The debt had arisen due to missed payments during the Covid Pandemic.
12. A CMD had been adjourned on 25th January 2023 to allow the Respondents to obtain money advice and consider a TTPD. Mr McGill confirmed that he did not seek money advice.
13. The rent is now being fully paid by Universal Credit but the arrears are not being addressed.
14. The arrears due to the Applicants amounts to £1529.27.

Reasons for Decision

15. The Respondents have 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 2019 to 1st October 2022 in which payments have been missed to amounting to £2129.27 in rent arrears. Mr McGill admitted the debt. As a consequence, the Applicant was entitled to be granted the Order for payment of £1529.27 against the Respondents. The Tribunal did not consider it appropriate to grant an order for £2129.27 as the Applicants are aware that the DWP pay on the 20th of each month rather than on 1st of each month.

Decision

16. The Applicants are entitled to an order of payment of £1529.27 by the Respondents. The Order was granted against the Respondents.

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.

G Miller

17th April 2023

Legal Member/Chair

Date