



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/22/4423

Re: Property at 273 Brechin Road, Arbroath, DD11 4BA (“the Property”)

Parties:

Mr Eric Reid, C/O Wardhaugh Property, CO Wardhaugh Property (“the Applicant”)

Mr Craig Cooper, Mrs Stacey Cooper, 273 Brechin Road, Arbroath, DD11 4BA (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Two thousand and ninety eight pounds and sixty three pence (£2098.63)

Background

- 1 By application to the Tribunal the Applicant sought an eviction order against the Respondent in respect of the Property under section 51 of the Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”). In support of the application the Applicant provided the following documentation:-
 - (i) Private Residential Tenancy Agreement between the parties; and
 - (ii) Rent Statement.
- 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 the 4 April 2023 to take place by teleconference. 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 The second Respondent emailed the Tribunal on 2 March 2023. She advised that she had proposed payments of £50 per week in an email to the Applicant's agent dated 28 November 2022 but required bank details in order to make payment. She advised that she had received no response from the Applicant's agent.

Case Management Discussion

- 4 The Case Management Discussion took place by teleconference on 29 March 2023. The Applicant was represented by Mrs Charlotte Macpherson of Wardhaugh Property Management. The Respondents were not in attendance. The Tribunal noted they had been served with the application paperwork confirming the date and time of the Case Management Discussion. The second Respondent had also made a written representation which confirmed her awareness of the proceedings. The Tribunal therefore determined to proceed in their absence.
- 5 Mrs Macpherson advised that the Applicant and the Respondents had a strained relationship, due to the issues the Respondents had caused during the tenancy which had now come to an end. This included making alterations to the property without the Applicant's permission, and the rent arrears that were the subject of the application. Mrs Macpherson confirmed that the Applicant was not willing to accept the payment offer proposed by the second Respondent on the basis that she had repeatedly offered payments towards her rent which were not forthcoming. The Applicant also believed she had the money to make payment of the arrears, as she had previously offered to purchase the property at a value of between £125,000 and £135,000, with a 10 or 15% deposit in cash. She owned a business in terms of which she operated a daycare. She had previously done this from the property without the Applicant's permission. Whilst her rent account was in arrears she had made alterations to the property, such as removing a fully functioning shed, laying astroturf to the back and grass to the front of the property, and putting in a jacuzzi with a wooden structure to shelter it. These were all without the Applicant's permission and during a period when she was in rent arrears. There was a discord between the reality of her situation and the non payment of rent. In December 2022 she had indicated that her husband was unwell and she was self employed, however she had since failed to communicate or make any payments. An email was only received once she became aware of the Tribunal proceedings.

Findings in Fact and Law

- 6 The parties entered into a Private Residential Tenancy Agreement dated 7 March 2017;
- 7 In terms of the Third clause of the said Tenancy Agreement the Respondents undertook to make payment of rent at the rate of £600 per calendar month.
- 8 The tenancy between the parties terminated on 1 August 2022.
- 9 As at the date of the Case Management Discussion arrears in the sum of £2098.63 were outstanding.
- 10 The Respondents are liable to pay the sum of £2098.63 to the Applicant under the terms of the said tenancy agreement between the parties.

Reasons for Decision

- 11 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 substantive facts in dispute therefore the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved that required the hearing of evidence. The Respondents had been given the opportunity to attend the Case Management Discussion but had failed to do so. The second Respondent had submitted a written representation confirming that she had made an offer of £50 per week towards the debt.
- 12 The Tribunal was satisfied having regard to the application paperwork that the Respondents were liable to make payment of rent at the rate of £600 per month and that arrears of £2098.63 were outstanding as at the date the tenancy terminated. The Respondents had not sought to dispute that the arrears were due.
- 13 The Tribunal noted that the second Respondent had offered payments of £50 per week towards the debt in an email to the Respondent on 28 November 2022. However neither she nor the first Respondent had made a formal time to pay application and there was no supplementary information before the Tribunal, an example being details of income and expenditure, to enable it to consider whether the offer was reasonable in the particular circumstances of this case. The Tribunal further noted the submissions made by the Applicant regarding previous payment offers that had not been honoured, and the Respondents' conduct during the tenancy. In light of the fact the Respondents had not attended the Case Management Discussion there was nothing before the Tribunal to contradict the submissions put forward by the Applicant which

the Tribunal found to be credible. On that basis the Tribunal declined to make any time to pay direction in this case.

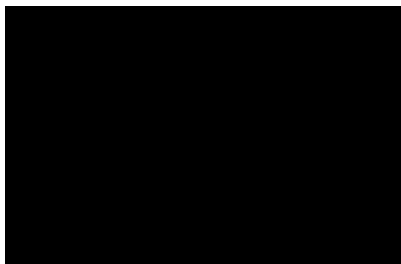
- 14 The Tribunal therefore made an order in the sum of £2089.63 against the Respondents.

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



Legal Member/Chair

4 April 2023

Date