



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017.

Chamber Ref: FTS/HPC/CV/22/1422

Re: Property at 3 McQuade Street, Bonnyrigg, EH19 3QG (“the Property”)

Parties:

Mrs Nicola Klan, 11 Auld Coal Crescent, Bonnyrigg, Midlothian, EH19 3JW (“the Applicant”)

Mrs Nina Sloan, Mr Leonard Sloan, 3 McQuade Street, Bonnyrigg, EH19 3QG; 3 McQuade Street, Bonnyrigg, EH19 3QG (“the Respondents”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondents for payment of the undernoted sum to the Applicant:

Sum of FIVE THOUSAND SEVEN HUNDRED AND TWENTY-TWO POUNDS AND FOUR PENCE (£5,722.04) STERLING

- Background
 1. An application was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondents in relation to rent arrears accrued under a private residential tenancy agreement.
- The Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 12 August 2022 by conference call. The Applicant was represented by her husband, Mark Klan.

There was no appearance by or on behalf of either of the Respondents. The application had been intimated on the Respondents by Sheriff Officer on 4 July 2022. The Tribunal was accordingly satisfied that the Respondents had been duly notified of the date and time of the CMD and that the CMD could proceed in the Respondents' absence.

3. The Applicant moved for the order for payment to be granted in the sum of £5,722.04. The parties had entered into a Private Residential Tenancy Agreement. The Respondents had paid their rent on time until December 2021 when there was an incident at the Property which resulted in the second-named Respondent sustaining an injury which stopped him working. The Respondents thereafter failed to make payment of rent in full each month. The monthly rent is £1200. The Applicant has attempted to discuss with the Respondents a repayment plan, but the Respondents have failed to engage with her nor enter into any repayment arrangement. Since submitting the application, the arrears have continued to increase and now stand at £8,122.04.

- Findings in Fact

4. The Tribunal made the following findings in fact:

- (i) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced 11 June 2021;
- (ii) In terms of Clause 8 of the Agreement, the Respondents were obliged to pay a monthly rent of £1,200 to the Applicant;
- (iii) The Respondents have failed to make payment of rent as fell lawfully due, and have accrued arrears amounting to £5,722.04 at the date the application was raised.

- Reasons for Decision

5. The Tribunal was satisfied that the Applicant was entitled to the sum as sought. The Respondents were obliged to make payment of rent in the sum of £1,200 per month under Clause 8 of the Agreement and had failed to do so. They have accrued arrears amounting to £5,722.04 at the date of the application and which fell lawfully due to be repaid to the Applicant. The Tribunal noted that the arrears had increased since the application was raised. However, as no application had been submitted under Rule 14A to increase the sum sought, the Tribunal could only grant an order in the original sum sought.

- Decision

6. The First-tier Tribunal for Scotland (Housing and Property Chamber) granted an order against the Respondents jointly and severally for payment of the undernoted sum to the Applicant:

Sum of FIVE THOUSAND SEVEN HUNDRED AND TWENTY-TWO POUNDS AND FOUR PENCE (£5,722.04) STERLING

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.

Fiona Watson

Legal Member/Chair

Date: 12 August 2022