



Decision on Case Management Discussion of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to an Assured Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/21/0059

Re: 12/1, Albany Street, new Town, Edinburgh, EH1 3QB ("the Property")

Parties:

Malcolm and Karen Johnston residing at 5/F, B5 Greenery Garden, 2A Mount Davis Road, Pok Fu Lam, Hong Kong ("the Applicant")

Nicola Caldwell, T C Young, Solicitors, 7 West George Street, Glasgow, G2 1BA ('The Applicants' Representative')

Delroy Bernard residing at 12/1, Albany Street, New Town, Edinburgh, Eh1 3QB ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment would be issued requiring the Respondents to pay the Applicant the sum of £14,100 by 29th April 2021.

Background

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent in the sum of £14100 being the sum outstanding as at 7th January 2021.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicants were:

2.1 A copy of the Tenancy Agreement.

2.2 A rent statement.

3. Application for a Time to Pay Direction.

The Respondent lodged an Application for a Time to Pay Direction dated 10th February 2021. The Application confirmed that the Applicant admitted the claim and applied for and order for payment to be made requiring the sum of £14000 to be paid within 8 weeks. The Respondents sent the Tribunal a Response to the Time to Pay Direction application dated 25th February 2021 and indicated that they were content with the Time to Pay proposal.

4. Requirements of Section 111 of the Procedure Rules.

4.1 In connection with the requirements of section 111 the Tribunal determined that the application correctly detailed the requirements of section 111(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name and address of the Applicants.
- (ii) the name and address of the Respondents.
- (iii) the reason for making the application.

4.2 The Tribunal also confirmed that the application had been accompanied by the documents specified in **Section 111(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statement of rent arrears.

5. Decision.

This case called for a conference call Case Management Discussion (CMD) at 2pm on 4th March 2021.

The Applicants did not attend but were represented by Nicola Caldwell of T C Young, Solicitors.

The Respondent attended.

5.1 Nicola Caldwell, on behalf of the Applicants, and the Respondent agreed the following facts, which were accepted by the Tribunal:

5.1.1 The Applicants are the Landlords of 12/1 Albany Street, New Town, Edinburgh, EH1 3QB being the subjects registered in the Land Register of Scotland under Title Number MID89777 ('the Property').

5.1.2 The Respondent is Tenant of the Property in terms of the Private Residential Tenancy between the parties dated 17th and 19th December 2019.

5.1.3 The Tenancy commenced on 19th December 2019.

5.1.4 The rent due in terms of the tenancy was £7050 per six months payable in advance.

5.1.5 The arrears due by the Respondent amount to £14100. The Respondent acknowledged that he had stated the incorrect figure of £14000 in the Time to Pay Application and the correct arrears figure was £14100.

5.2 Time to Pay Direction

Section 1 of The Debtors (Scotland) Act 1987 (as amended by the First- tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019) provides that the Tribunal will make a Time to Pay Direction if satisfied that it is reasonable in the circumstances to do so having regard in particular to:-

1. The nature and reasons for the debt in relation to which the order is sought.
2. Any action taken by the creditor to assist the debtor in paying the debt.
3. The debtor's financial position.
4. The reasonableness of any proposal by the debtor to pay that debt.
5. The reasonableness of any refusal or objection by the creditor to any proposal or offer by the debtor to pay the debt.

Considering that the Respondent has accepted the claim of £14100 and the Applicants have accepted the request made by the Respondent to pay this sum over the period of eight weeks and the Tribunal consider this to be reasonable, the Tribunal determined that the outstanding rent due by the Respondent amounted to £14100 and accordingly they issued an Order for Payment in this sum to be paid by 29th April 2021.

6. 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.

Jacqueline Taylor

|
Legal Member

4th March 2021