



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/21/0497

Re: Property at 71B Princes Street, Perth, PH2 8LJ (“the Property”)

Parties:

Mrs Gillian Wilson, Dowlings, Perth Road, Blairgowrie, PH10 6EN (“the Applicant”)

Mr Andrew Crawford, 71B Princes Street, Perth, PH2 8LJ (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member) and Elizabeth Currie (Ordinary 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 in the sum of £5,175 be granted.

- **Background**

1. This was the Second Case Management Discussion (CMD) to consider the application dated 3rd March 2021 by the Applicant for an order for payment of rent arrears by the Respondent in respect of the tenancy of the Property by the Respondent from the Applicant.
2. The following was lodged with the application:-
 - a. Tenancy Agreement dated 1st December 2018
 - b. Rent statement to 1st March 2021 showing sum due of £4,550.
3. Intimation of the original date and place of the first CMD had been sent to the parties by letter on 22nd March and served by sheriff officer on the Respondent on 23rd March 2021. Intimation of this CMD was sent by letter to the Respondent.

4. On 6th April 2021 the Applicant representative had sent an updated rent statement and request to increase the sum claimed to £5,175 and confirmed a copy had been intimated to the Respondent by e-mail.
5. At the first CMD held on 20th April 2021 the Applicant did not attend but was represented by her solicitor Ms Anne Millar from Thorntons solicitors. The Respondent also did not attend and was not represented. Ms Miller at the first CMD had referred to the updated rent statement and pointed out that the arrears started in April 2020 when the Respondent has underpaid for several months. She advised that only two payments of the full rent due of £625 per month have been paid since that date and this has left the sum of £5,175 outstanding to date.
6. In response to questions Ms Millar confirmed there has been significant correspondence by e-mail with the Respondent in which the Respondent has replied and she understood the requirements for pre-action rent arrears coronavirus letters have also been met. None of this correspondence had been lodged and the Tribunal considered that as the Respondent had attended an earlier CMD for an eviction action raised separately by the Applicant under a different ground, and had made representations about the merits of it and advised that he was going to seek legal advice; and given the Applicant had not lodged any of the correspondence Ms Millar had referred to, the Tribunal felt it was only fair to continue consideration of this case to another CMD.
7. The Tribunal directed the Applicant to lodge the correspondence between the Landlord and Tenant showing what steps the Landlord has taken to seek payment and offer any advice or support to the tenant, and invited the Respondent to make any representations he wished to make regarding whether or not he admitted the rent arrears either in writing or in person at the next CMD. The Tribunal also advised the Respondent that he may wish seek legal advice on this application and if he did so to advise the Tribunal of any representative he wished to bring to the next CMD on 1st June 2021.
8. There has been no response in writing from the Respondent. The Applicant's representative lodged on 26th May an inventory of 14 productions consisting of letters and e-mails regarding requests for payment of rent and regarding conducting an inspection of the Property.

- **The Case Management Discussion**

9. The CMD proceeded today by way of teleconferencing in view of the continued need for social distancing. The Convener made introductions and explained the order and purpose of the CMD.
10. The Applicant's representative Ms Anne Miller attended once again without the Applicant. The Respondent did not attend.
11. Ms Miller confirmed that there has been no further payment made towards the arrears nor has there been any proposal for payment. She referred to the copy e-mails and letters sent to the Applicant and submitted and advised that despite the response in the e-mails that the Respondent was trying to find a way to pay the arrears, no proposal or payment has been made. She advised that a further rent sum is now due and owing but acknowledged that although this has been intimated to the Respondent there has been no request made to

the Tribunal to increase the sum from the previous request made to increase it to £5,175 at the last CMD and so her motion was for the Tribunal to make an order for £5175 in favour of the Applicant against the Respondent in respect of rent arrears.

- **Findings in Fact**

1. The Respondent entered into a lease of the Property from the Applicant which commenced on 1st December 2018.
2. The Rent due in terms of the lease is £625 monthly payable in advance
3. The Respondent is still resident in the Property.
4. The Respondent has failed to pay the rent in full from April 2020.
5. The rent outstanding as at 1st April 2021 is £5,175. An increase in the sum sought was made by the Applicant at the last CMD on 20th April to this sum and was intimated on the Respondent.
6. No further payments have been made towards the rent and the current balance due is now £5,800.
7. No response has been received by the Respondent to this application.

- **Reasons for Decision**

8. The parties entered into a lease where the Respondent has leased the property from the Applicant from 1st December 2018 and has agreed to pay £625 every month in rent.
9. The Applicant has raised an action for eviction which also called for a CMD today but is not based on rent arrears and the Respondent is still resident in the Property.
10. The Respondent has failed to make full payment of rent since April 2020. From the statements lodged by the Applicant's representatives he has paid £500 for rent due in April to June and £200 for August 2020, paid rent in full for September 2020 and January 2021 and has failed to pay for the months of July, October, November and December 2020 and February to April 2021 He has not made any payment since. The Applicant is entitled to recover rent lawfully due.
11. The Respondent has made no appearance at this or the prior CMD held to discuss this application and has made no written representations despite being invited by the Tribunal in a direction to do so.
12. The Tribunal accepts the written evidence and verbal statements made by the Applicant's agent, who the Tribunal found clear and credible in her evidence that the rent outstanding and due by the Respondent now amounts to £5800 including rent due for May 2021. Ms Miller acknowledged that she could only seek an order for £5175 as she has not asked the Tribunal to amend the sum sought which requires to be done with 14 days' notice.
13. 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 due of £5,175 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.

Jan Todd

Legal Member/Chair

1st June 2021

Date