

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under the Private Housing (Tenancies)(Scotland) Act 2016 (“the 2016 Act”) and Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Rules of Procedure) Regulations 2017 (“the 2017 Rules)

Chamber Ref: FTS/HPC/CV/21/2911

Re: Property at 12 Hood Street, Clydebank, G81 2LT (“the Property”)

Parties:

**Mr Thomas McMeekin, 2/2, 23 Miller Street, Clydebank, G812 1UR
 (“the Applicant”)**

**Clydebank Estate and Letting Agents, 48 Kilbowie Road, Clydebank, G81 1TH
 (“the Applicant’s Representative”)**

Miss Kirsty Emans, 12 Hood Street, Clydebank, G81 2LT (“the Respondent”)

Tribunal Members:

Ms Susanne L M Tanner Q.C. (Legal Member and Chair)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent should pay the Applicant the sum of THREE THOUSAND NINE HUNDRED AND FIFTY SIX POUNDS AND EIGHTY PENCE (£3956.80) STERLING; and made an Order for Payment in respect of the said sum

STATEMENT OF REASONS

1. Procedural Background

- 1.1. The Applicant's Representative made an application to the tribunal on [] in terms of Section 16 of the 2014 Act and Rule 111 of the 2017 Rules, seeking an order for payment against the Respondent in the sum of £2754.64 in respect of rent arrears ("the Application"). The Application was later amended to proceed under Rule 70 and to increase the sum claimed (see below).
- 1.2. The Applicant's Representative attached supporting documentation with the Application:
 - 1.2.1. Copy of short assured tenancy agreement;
 - 1.2.2. Rent Statement; and
 - 1.2.3. Signed mandate of authorisation by the landlord.
- 1.3. In response to a request for further information, the Applicant's Representative submitted a signed mandate of authorisation from the co-proprietor of the Property.
- 1.4. On 15 December 2021, the Application and documentation submitted with it was considered by the legal member of the tribunal with delegated powers of the Chamber President and was accepted for determination by the tribunal.
- 1.5. A Case Management Discussion ("CMD") was fixed for 21 February 2022 at 14.00 by teleconference.
- 1.6. By letter of 13 January 2022, parties were notified of the date, time and place of the CMD and were told that they were required to attend. Parties were advised that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision on the application, which may involve making or refusing a payment order. Parties were advised that if they do not attend the CMD that would not stop a decision or order being made by the tribunal if the tribunal considers that it has sufficient information before it to do so and the procedure has been fair. The Respondent was invited to submit written representations in response to the Application by 3 February 2022.
- 1.7. The Respondent was served with the Application and notification of CMD by Sheriff Officers.

- 1.8. The Respondent did not submit any written representations or make any contact with the tribunal up to and including the date of the CMD on 21 February 2022.
- 1.9. The Applicant's Representative made a request to amend the Application to proceed under Rule 70. The Application was considered by the tribunal and the tribunal allowed the amendment.
- 1.10. The Applicant's Representative submitted an updated rent statement dated 11 February 2022 and requested to amend the sum claimed to £4,239.64 in respect of rent arrears to 9 March 2022 .

2. CMD: 13 August 2021 at 1000h by teleconference

- 2.1. Ms Michelle Gabriel from the Applicant's Representative attended the CMD.
- 2.2. The Respondent did not attend the hearing and made no contact with the tribunal's administration. The tribunal was satisfied in terms of Rule 29 of the 2017 Rules that the requirements of Rule 24(1) of the 2017 Rules regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the Applicant and all the material before it.
- 2.3. The chair confirmed that the Application that the amendment to proceed under rule 70 had been allowed. Ms Gabriel stated that as far as she is aware the Applicant remains in the Property and she has been in contact with her on multiple occasions over an extended period about her rent arrears. The rent arrears now due are £4239.64 for the period to 9 March 2022. Ms Gabriel referred to the rent ledger dated 11 February 2022. She stated that this issue has been going on for a long time, the tenant has been in arrears since 2018 and the landlord has been patient with her. Now there has been no rent since August 2021. She stated that the Respondent used to receive Housing Benefit. That has been stopped. Ms Gabriel has been on the phone to the benefits office. She has been advised that the Respondent is no longer entitled to benefits. Due to GDPR they cannot give a reason. Every time Ms Gabriel goes back to the Respondent, the Respondent says that she will speak to the benefits office or says that it is a mistake. The Respondent at one stage entered into a payment plan to overpay from 16 December 2018. The last payment of any kind from the Respondent was on 30 July 2021. The Housing Benefit stopped in August 2021. The Applicant has received certain emails from the Respondent which say that she is not in a position to make any payments. The Applicant has served notice of eviction which ends on 20 March 2022. The

Applicant has instructed his representative that he would like to seek the order for payment today for arrears to today's date.

2.4. There was further discussion about the sum claimed to take account of the fact that the rent statement extends beyond today's date. The Applicant's Representative amended the sum claimed for the period to 21 February 2022, which includes pro rata rent from 10 to 21 February 2022. She sought to amend to claim £3956.80 (which is an additional £212.16 for the period from 10 to 21 February 2022, based on 28 days in February and a daily rate of £17.68, for 12 days).

2.5. The tribunal allowed the amendment to the sum claimed of £3956.80 for arrears to 21 February 2022 on the basis of the supporting statement previously submitted to the tribunal which had been sent to the Respondent, and having regard to Rules 14A and 16.

3. The tribunal makes the following findings-in-fact:

3.1. The Applicant is one of the registered proprietors of the Property.

3.2. There is a Short Assured Tenancy between the Applicant and the Respondent in respect of the Property dated 5 December 2012.

3.3. The tenancy commenced on 5 December 2012.

3.4. Rent is payable in the sum of £495.00 per calendar month.

3.5. The Respondent continues to reside in the Property.

3.6. The rent arrears for the period to 21 February 2022 are £3956.80.

4. Decision

4.1. The tribunal determined on the basis of the Application (including supporting documents) and the oral representations made on behalf of the Applicant; and in the absence of written or oral submissions from the Respondent; that the Applicant had proved that the Respondents owes the Applicant the amended sum of £3956.80 sought on behalf of the Applicant for rent to 21 February 2022; and made an order for payment by the Respondent to the Applicant for the said sum.

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.

S Tanner

21 February 2022

Ms. Susanne L. M. Tanner Q.C.
Legal Member/Chair