



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/23/2315

Re: Property at 12 Milnefield Avenue, Elgin, Moray, IV30 6EL (“the Property”)

Parties:

Mrs Sara Anderson, 20 King Street, Elgin, Moray, IV30 1EU (“the Applicant”)

Mr John Stillie, 12 Milnefield Avenue, Elgin, Moray, IV30 6EL (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of EIGHT THOUSAND FIVE HUNDRED AND SEVENTY-FIVE POUNDS (£8575.00) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

- 1. This is an action for recovery of rent arrears raised in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**
- 2. The application was accompanied by a copy of a Short Assured tenancy dated 30 November 2017 between Mary Main and the Respondent, an AT5 dated 30 November 2017 and a rent statement to 30 June 2023.**
- 3. On 3 August 2023 the Tribunal accepted the application under Rule 9 of the Regulations 2017.**

4. A Case Management Discussion (“CMD”) under Rule 17 of the Regulations was assigned to proceed on 19 October 2023. That CMD was discharged on the Applicant’s motion and a new CMD was assigned to proceed on 18 December 2023.
5. The Tribunal issued a Notice of Direction for the Applicant to lodge an up to date rent statement together with correspondence between herself or her agents and the Respondent regarding the arrears. The Applicant responded accordingly.

Case Management Discussion

6. The Tribunal proceeded with the CMD on 18 December 2023 by way of teleconference. The Applicant Mrs Anderson represented herself. She was joined by her husband Keith Anderson. The Representative Mr Stillie represented himself. The case was heard together with an application for eviction under case reference FTS/HPC/EV/23/2314.
7. The Tribunal had before it the Short Assured tenancy dated 30 November 2017 between Mary Main and the Respondent, an AT5 dated 30 November 2017, a rent statement to 30 November 2023, various text messages from Belvoir Lettings to the Respondent and to the Applicant, letters dated 18 May 2023 and 28 June 2023 and emails dated 15 February 2023 and 28 June 2023 from the Respondent. The Tribunal noted the terms of these documents.
8. The Applicant explained she was an accidental Landlord having inherited the Property from her mother who had rented it out to fund care home costs. She was a compassionate Landlord and had done the Property up nicely and always attended to repairs. However she was unable to fund the outgoings such as insurance which had increased due to the rent arrears. Rent arrears were now £11 650. The Tribunal noted the terms of the rent statement dated 30 November 2023 and that the Respondent had paid £500 on 28 February 2023 and £300 on 17 July 2023. The Tribunal also noted that in terms of Clause 6 of the Short Assured Tenancy Agreement the monthly rent was £675. She submitted the Respondent had been given lots of opportunity to pay the rent and clear the arrears but he had not done so. She asked the Tribunal to grant an Order for payment. The Tribunal noted arrears at the date of the application were £8575.
9. In response Mr Stillie explained that he had been a lorry driver but he had had to give that up due to issues with his back. He found another job as an HGV driver in June and was told to expect a certain amount of overtime. He works 4 days on and 4 days off. Unfortunately, the level of overtime promised has not transpired. His net pay is about £300 per week. He has not taken any money advice to see whether he was entitled to other benefits. The Tribunal noted the Respondent had been sign posted to advice agencies in the letters dated 18 May and 28 June 2023. He accepted he was in arrears of £11 650.

He had other debts and apologised to the Applicant whom he considered had been a good Landlord.

Findings in Fact

10. The Applicant's mother Mary Main and the Respondent agreed by way of Clause 6 of a Short Assured Tenancy Agreement commencing on 30 November 2017 in relation to the Property that the Respondent would pay the a monthly rent of £675.
11. The Applicant inherited the Property on her mother's death.
12. The terms of the Short Assured Tenancy Agreement have not been varied. The Respondent has an ongoing obligation to pay rent of £675 per month.
13. The Respondent has fallen into arrears of rent of £11650. He has made two payments to account in 2023, one payment of £500 on 28 February 2023 and one payment of £300 on 17 July 2023.
14. The Respondent continues to accrue arrears. He has not entered into any repayment arrangements with the Applicant.

Reasons for Decision

15. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by both parties.
16. The Tribunal noted terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen and showed the total arrears to 30 November 2023 of £11 650. The arrears of £8575 had increased from 30 June 2023. This was the original sum claimed. The Applicant had produced evidence of persistent non- payment of rent. The Respondent admitted he was in arrears. The Tribunal was satisfied on the basis of the documents lodged, together with parties' submissions that the order for payment in favour of the Applicant be granted for the original sum claimed of £8575.

Decision

17. The Tribunal granted an order for payment of £8575.00.

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.

Shirley Evans

18 December 2023

Legal Chair

Date