



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)

Chamber Ref: FTS/HPC/CV/23/1626

Property at 10 Bongate Gardens, Jedburgh, TD8 6DP (“the Property”)

Parties:

Mr Michael Juska, 17 Sydney Terrace, Edinburgh, EH7 6SR (“the Applicant”)

Ms Alisha Sinclair, 10 Bongate Gardens, Jedburgh, TD8 6DP (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member) and Ann Moore (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 of the sum of £2120.37 should be granted.

Background

- 1. The Applicant seeks an order for payment in terms of Section 71 of the 2016 Act. A tenancy agreement and rent statement were lodged in support of the application.**
- 2. A copy of the application was served on the Respondent by Sheriff Officer. Both parties were advised that a case management discussion (“CMD”) would take place by telephone conference call on 21 September 2023 at 2pm and that they were required to participate. .**
- 3. The CMD took place on 21 September 2023. The Applicant was represented by Ms Grierson. The Respondent did not participate and was not represented.**

4. Ms Grierson told the Tribunal that the Respondent was still living in the property but there had been no recent contact with her. There had been no payments to the rent account since July and the arrears had increased to £2511.61.
5. The Tribunal noted that the Applicant had not submitted an updated rent statement prior to the CMD. In addition, the rent statement lodged with the application was unclear. One page indicated that the sum due on 15 May 2023 was £463.86. Another page of the document stated £1149.23. The latter also showed a balance carried forward of £855 on 3 April 2023. Ms Grierson told the Tribunal that the Applicant's current agent had taken over the previous company. There had been a changeover between the two companies and the sum carried forward was probably the sum outstanding at the date of the changeover. In response to questions from the Tribunal, Ms Grierson stated that letters had been issued to the Respondent in compliance with the Rent Arrears Pre Action Protocol. She confirmed that copies of these letters could be lodged.
6. The Tribunal determined that a further CMD would be arranged and issued a direction for further information and documents.
7. In response to the direction the Applicant lodged a bundle of documents which included two rent statements, a number of emails to the Respondent in compliance with the Pre Action Protocol, some emails from the Respondent and emails from the DWP indicating that applications for direct payments from Universal Credit to the rent account had been refused.
8. The parties were notified that a further CMD would take place by telephone conference call on 8 December 2023 at 10am. The Applicant was represented by Ms Paterson. The Respondent did not participate and was not represented.

The CMD

9. Ms Paterson told the Tribunal that the Respondent continues to reside at the property. The letting agents have tried to meet with her to discuss her rent arrears but she always cancels the meetings. The last payment made to the rent account was £400 in July 2023. She recently telephoned to report that the boiler was not working. During the call she said that she would make a payment of £500 on 1 December but did not do so. She also stated that she is 23 weeks pregnant, is still working and has two young children living at the property with her. The arrears have increased to £3648.62.
10. The Tribunal noted that the updated rent statement lodged in response to the direction only covered the period to 21 September 2023. The Applicant had not submitted an updated rent statement prior to the CMD or a request to amend the application to the current figure. As the Respondent had not been notified of the current level, the Tribunal could only consider the application in relation

to the arrears of £2120.37. Ms Paterson confirmed that she was seeking an order for payment of this sum.

Findings in Fact

11. The Applicant is the owner and landlord of the property.
12. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
13. The Respondent is due to pay rent at the rate of £97.91 per week.
14. The Respondent has been in arrears of rent since January 2020 and has made no payments to the rent account since 4 July 2023.
15. The Respondent owes the sum of £2120.37 in unpaid rent for the period to 21 September 2023. No payments have been made to current rent or arrears since that date.

Reasons for Decision

16. From the documents submitted and the information provided at the CMDs the Tribunal is satisfied that the Respondent has incurred arrears of rent of £2120.37 and that the Applicant is entitled to a payment order for this sum.

Decision

17. The Tribunal determines that an order for payment should be granted against the Respondent.

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.



Josephine Bonnar, Legal Member

8 December 2023