



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/23/3804

Re: Property at Gillburn Gate, Flat 2, Gillburn Road, Kilmacolm, PA13 4AG (“the Property”)

Parties:

Ms Hazel Reid, 61 Baidland Avenue, Dalry, Ayrshire, KA24 4DR (“the Applicant”)

Mr Haroon Khan, UNKNOWN, UNKNOWN (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Mary Lyden (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 by the Respondent in the sum of £5,500 should be made in favour of the Applicant.

Background

1. By application received on 27 October 2023, the Applicant applied to the Tribunal for an order for payment of rent arrears amounting to £3,850 against the Respondent. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement and a rent statement.
2. Following initial procedure, on 17 November 2023, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.
3. On 15 December 2023, Sheriff Officers sought to serve a copy of the Application and supporting documentation on the Respondent, together with intimation of the date, time and details of the Case Management Discussion (“CMD”) to take place by telephone conference call on 6 February 2024.

However, said Sheriff Officer service was unsuccessful and service was thereafter effected by way of Advertisement on the Tribunal's website for the required period. Written representations were to be lodged by 1 January 2024. No written representations were submitted by the Respondent.

4. On 19 January 2024, the Applicant's representative emailed the Tribunal attaching a copy of an updated rent statement, showing an increased balance owing of £5,500.

Case Management Discussion

1. At the CMD on 6 February 2024 at 10am, the Applicant was represented by Ms Cyndi McKay of Kilgen Property Management, the Applicant's letting agents. Ms McKay was accompanied by Ms Sydney Smade, also of Kilgen Property Management who was attending as observer only. The commencement of the CMD was delayed for approximately 5 minutes to see if the Respondent would join the call but he did not.
2. After introductions and introductory remarks by the Legal Member, Ms McKay was asked to confirm the position in relation to the payment application and she confirmed that the Applicant was seeking a payment order in the increased sum of £5,500 in respect of rent arrears. The Legal Member noted that the updated figure had been notified to the Tribunal in sufficient time and therefore allowed the amendment of the application in this regard.
3. As to the background of the application, Ms McKay referred to the rent statements produced and confirmed that the Respondent had paid 3 months' rent in advance plus the deposit at the commencement of the tenancy on 16 December 2022. The rent was £550 per month. The Respondent made one further payment towards rent on 16 March 2023, but has not paid anything since then. They were instructed to serve a Notice to Leave in respect of a conjoined eviction action also at CMD today in terms of which the Respondent was asked to vacate by 23 October 2023. They visited the Property on that date as they had heard nothing from him and found the curtains drawn. They looked through the letterbox and could see that his belongings were still there. They have not been back to the Property since and have not heard anything from the Respondent. They were last inside the Property in June 2023, when safety checks were being carried out by a contractor. The Respondent had given permission for this, provided the letting agent accompanied the contractor, but was not present himself. They issued several letters to the Respondent regarding the rent arrears and he occasionally communicated with them by telephone in response, but never in writing. Initially, he offered explanations such as that the arrears were down to a marital breakdown and that his bank cards had been frozen. He told them he worked as a long-distance lorry driver and that it was difficult for him to contact them or arrange to make rent payments during business hours. The payments he had originally made were made by BACS or by telephone. He promised at one point to pay a lump sum payment towards the arrears by a date in June 2023 but failed to do so. The Respondent was understood to live alone at the Property, which is a one-bedroom flat and

to be around 44 years old. He had never mentioned any health conditions to the letting agent or being in receipt, or having applied for, any state benefits. Rent has not been paid for over 10 months and the rent arrears are now very high. Ms McKay stated that the Applicant has been nothing but patient in relation to this matter and did not rush to evict the Respondent when he began to accrue rent arrears. She had also been willing to enter into a payment arrangement with the Respondent. Ms McKay confirmed that there is a deposit of £550 lodged with a tenancy deposit scheme and they will apply for its return once the tenancy has ended. This may accordingly be available to put towards the rent arrears in due course.

4. The Tribunal adjourned briefly to consider the application in private and, on reconvening, confirmed that a payment order would be granted in the sum sought of £5,500. There was brief discussion regarding the process to follow and Ms McKay was thanked for her attendance.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy commencing 16 December 2022.
3. The rent in terms of the PRT is £550 per calendar month.
4. The Respondent initially paid rent due but has not made any payments towards rent since the sum of £550 was made on 16 March 2023.
5. Rent arrears amounted to £3,850 when this application was made, and now amount to £5,500.
6. The Respondent has been called upon to make payment of the rental arrears or enter into a satisfactory payment arrangement but has failed to do so.
7. It is not known if the Respondent is still occupying the Property.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation, and the oral information provided at the CMD on behalf of the Applicant. The Respondent did not lodge any written representations nor attend the CMD, having been properly and timeously notified of same.
2. The Tribunal considered that there was nothing to contradict the information from the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Tribunal had regard to the terms of the tenancy

agreement and the updated rent statement and was satisfied that the sum of £5,500 was due and resting owing in respect of unpaid rent due to the Applicant in terms of this application.

3. The Tribunal concluded that, in the circumstances, an order in the sum sought could properly be made at the CMD today and that there was no requirement for an Evidential Hearing.

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.

N Weir

Legal Member/Chair

6 February 2024
Date