



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/23/2643

Re: Property at 160 The Pinnacle, Bothwell Street, 3/13, Glasgow, G2 7EL (“the Property”)

Parties:

Nevis Properties Ltd, 6th Floor, Gordon Chambers, 90 Mitchell Street, Glasgow, G1 3NQ (“the Applicant”)

Mr Tomas Garvey, 160 The Pinnacle, Bothwell Street, 3/13, Glasgow, G2 7EL (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £2460 (TWO THOUSAND FOUR HUNDRED AND SIXTY POUNDS)

Background

1. An application was received by the Housing and Property Chamber dated 7th August 2023. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 13th October 2023 all parties were written to with the date for the Case Management Discussion (“CMD”) of 16th November 2023 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 3rd November 2023.

3. On 16th October 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent. This was evidenced by Certificate of Intimation dated 16th October 2023.
4. On 13th October 2023, the Applicant emailed the Housing and Property Chamber with an amended rent account for the period 1st April 2023 to 1st October 2023. This amended the amount sought to £2915.28.

The Case Management Discussion

5. A CMD was held 16th November 2023 at 11.30am by teleconferencing. The Applicant was represented by Ms Caitlin McKendrick, Accounts Supervisor, Tay Lettings. The Respondent was present and represented himself. The Respondent did not make representations in advance of the CMD. Ms McKendrick said that the Respondent has reduced the arrears to £2640. He made a payment of £640.28 on 6th November 2023 and £360 on 13th November 2023. However, a rent charge was applied to the account which has meant that the sum outstanding is £2640. The Applicant is reluctant to enter into a payment agreement without an order as there have been broken payments in the past. Ms McKendrick said that a Notice to Leave has been issued upon the Respondent on the grounds that the Property needs to be refurbished. It expires on 10th December 2023. The Respondent admitted the debt. He has been off work ill. This meant that this income has been reduced. He is now back at work. He is working with Step Change to address his finances and pay any debt that has arisen. He does want to pay this. He is hopeful for a bonus to be paid to him from his work around Christmas time which he will use to pay the outstanding amount. The Tribunal discussed if he had considered a Time To Pay direction. A discussion followed regarding a Time To Pay Direction ("TTPD"). It was explained that this would allow the Respondent to pay up the outstanding arrears. Ms McKendrick said that she would consider an appropriate payment offer. The Tribunal noted that the Respondent will need to be active in applying for the TTPD. He will need to contact the Housing and Property Chamber to request that a TTPD be sent to him. If he is looking to seek Step Change or other money advice to help him complete the TTPD then this appointment will need to be made and attended in advance of the next CMD so that the Applicant can consider the contents of the TTPD. Once the TTPD has been completed it will need to be lodged with the Housing and Property Chamber. The Applicant and Tribunal will then be sent a copy of it. If the Applicant agrees to the amount offered then the case will be dealt with administratively and will not proceed to the CMD. If the amount offered is not accepted by the Applicant then the case will proceed to the CMD. The Tribunal noted that a TTPD allows for the outstanding amount to be paid in instalments. Should those instalments stop before the debt is repaid then the Applicant is entitled to a full order for the remaining amount. The Tribunal also noted that should the Respondent decide not to proceed with a TTPD it will be most likely that at the next CMD the Tribunal will grant the full order as the debt has been admitted. The Respondent understood these points. He was willing to look at lodging a TTPD and will get money advice. If the arrears have been fully addressed then the Applicant can withdraw the application if appropriate. As

these arrears are attached to rent arrears they will continue to accrue if the rent charge is not paid. The Applicant can lodge and up to date rent account prior to the next CMD. This should be done no less than 14 days before the next CMD and should indicate that the amount sought is to be amended if it is different from the amount detailed in the email of 13th October 2023. The Respondent consented to the Housing and Property Chamber using his email for correspondence. Adjourned to a further CMD to allow for a TTPD to be lodged by the Respondent and considered by the Applicant.

Case Management Discussion (continued)

6. A CMD was held 16th November 2023 at 11.30am by teleconferencing. The Applicant was represented by Ms Caitlin McKendrick, Accounts Supervisor, Tay Lettings. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make representations in advance of the CMD.
7. Ms McKendrick said that there has not been any contact from the Respondent recently. The Applicant had made the decision not to pursue the arrears too vigorously to allow the TTPD to be lodged. The ongoing net charge has not been paid. On 10th January 2024 Ms McKendrick's firm emailed the Respondent asking about payment and querying about payment of the outstanding amount from his bonus as he had said at the previous CMD. The Respondent replied to say that he did not get the bonus from his work this year. He had not included his full rent in the assessment he did but has done so now. He thought that he could make a payment plan through "the commerce". It is presumed that the Respondent had meant that he could arrange a payment plan through the Tribunal. Ms McKendrick's firm emailed the Respondent again on 12th January 2024 to say that he needed to pay his rent and address his arrears. There have been no further communications from him. The arrears are currently £4576.64. The Tribunal noted that there has not been an increase submitted which means the amount that can be awarded is £2640.
8. Ms McKendrick said that she is confident that the Respondent is still living in the Property. A Notice to Leave was served upon the Respondent to allow refurbishment to be undertaken to the Property. The Respondent contacted the check out team at her firm asking for extra time as he had not been able to locate a new property. He was given further time until 10th January 2024. He did not leave at this point but has asked again for further time as he has still not found a property to live in.
9. The Tribunal was satisfied that the Applicant was entitled to an order for payment for £2640.

Findings and reason for decision

10. A Private Rented Tenancy Agreement commenced 10th February 2022.

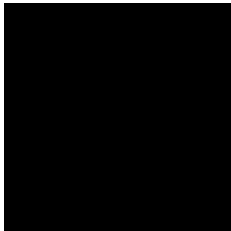
11. The Respondent has persistently failed to pay his rent charge of £725 per month. The rent payments are due to be paid on the first day of each month.
12. There was a CMD on 16th November 2024 which was adjourned to allow for a TTPD. No TTPD has been lodged.
13. The Respondent has not paid either his arrears or his own going rent charge. The arrears are £4576.64. The amount which has been notified to the Tribunal is £2640.

Decision

14. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £2640.

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.



12th February 2024

Legal Member/Chair

Date