



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing Tenancies (Scotland) Act 2016 and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.

Chamber Ref: FTS/HPC/CV/23/0465

Re: Property at 5 Moffat Way, Peffermill, Edinburgh, EH16 4PY (“the Property”)

Parties:

Mr Syed Nasir and Mrs Anjum Murtaza, 10 Bushmill Close, Manchester, M20 2NQ (“the Applicants”)

Mr Abayomi Jibodu, whose current address is unknown and Mrs Adebambo Jibodu, 79/4 Stenhouse Street West, Edinburgh, EH11 3NJ (“the Respondents”)

Tribunal Member:

Martin McAllister (Legal Member) (“the tribunal”)

Decision (in absence of the First Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order be made against the Respondent for payment of the sum of SIX THOUSAND SEVEN HUNDRED AND SIXTY FOUR POUNDS AND FOUR PENCE (£6764.04) to the Applicant.

The Tribunal ordered that the sum be paid by monthly instalments of £100 with the first instalment commencing on 29 February 2024 and thereafter on the 29th day of each month until complete repayment of the debt.

This matter called for a case management discussion and concerned an application for civil proceedings in relation to a Private Residential Tenancy under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016. A teleconference was held on 6 February 2024.

Attendance and Representation

- 1. Rachel MacDonnell, Trinity Factoring Services Ltd, attended on behalf of the Applicants who were not present.**

2. Mrs Adebambo Jibodu, the second Respondent was in attendance.
3. Mr Abayomi Jibodu, the first Respondent was not in attendance.

Background

4. On 14 February 2023, the Applicants submitted an application to the First-tier Tribunal for Scotland seeking an order of payment in respect of rent arrears. The sum originally sought was amended with leave of the Tribunal and the sum now sought is £7264.
5. The Respondents had left the Property in May 2023.
6. The case had called on previous occasions. At the most recent case management discussion on 6 November 2023, Mrs Jibodu was in attendance and provided an up to date address.

Preliminary Matters

7. The tribunal had a certificate of Service by Advertisement in respect of Mr Abayomi Jibodu which confirmed that the details of the case management discussion had appeared in the Service by Advertisement page of its website from 21 December 2023 until 6 February 2024.
8. The Tribunal was satisfied that service of the application and the case management discussion had been effectively made.
9. Mrs MacDonnell said that, since the previous case management discussion, Mrs Jibodu had paid £500 in reduction of the debt which meant that the sum now sought by the Applicants had been reduced to £6764.04.

Discussion

10. The purpose of a case management discussion was explained by the Legal Member.
11. It was noted by the tribunal that, at the case management discussion on 6 November 2023, Mrs Jibodu had intimated that she wanted to submit a Time to Pay Application. She said that she had done so and had sent the completed form by post. The Tribunal had no record of having received it.

12. Mrs Jibodu did not dispute that she and her husband owed the sum of £6764.04 to the Applicants. She said that she and her husband had separated and that he no longer resides with her.
13. Mrs Jiboyu said that the Time to Pay application form detailed her income and expenditure. She said that her financial position meant that she was struggling to pay her debts and had received the assistance of a debt management company which had worked out a payment plan for her. She said that she had managed to pay £100 per month in reduction of the debt and that the application form had stated that she would continue to do so. She said that, if the Applicants pressed for payment of the whole sum, it is possible that her debt management plan would collapse and that she would not be able to pay anything. Mrs Jibodu gave detailed information on her income and expenditure and the financial obligations she has in caring for her son. She said that she is striving to improve her financial situation by getting a better job and that, if she were able to pay more, she would make payments additional to the £100 per month.
14. Mrs MacDonnell said that, on the basis of the regular payments recently received from Mrs Jibodu and the information provide by her, the Applicants are prepared to accept monthly payments of £100 in reduction of the debt.

15. Findings in Fact

- 14.1 The parties entered into a private residential tenancy agreement in respect of the Property.
- 14.2 The private residential tenancy agreement was dated 3 December 2019.
- 14.3 The tenancy commenced on 30 December 2019 and ended in May 2023.
- 14.5 The monthly rent due under the private residential tenancy was £995.
- 14.6 There are rent arrears of £6764.04.
- 14.7 The second Respondent has been making monthly payments of £100 in reduction of the debt owed to the Applicants.
- 14.8 The second Respondent accepts that the sum currently owed to the Applicants by the Respondents is £6764.

16. Documents before Tribunal

- 16.1 Private residential tenancy agreement dated 3 December 2019.
- 16.2 Various rent ledger statements.

Reasons

17. The tribunal considered that there was no reason to adjourn the determination of the application to a Hearing. The second Respondent accepted that the sum of £6764 is due to the Applicants. No further evidence was required to assist in determining the application. The

tribunal accepted that the Respondents have an obligation to pay rent and that there are arrears amounting to £6764.04 which is the sum being sought by the Applicants.

18. The tribunal noted that the second Respondent had submitted a Time to Pay Application which had not arrived at the Tribunal office. Mrs Jibodu provided information on her income and expenditure and Mrs MacDonnell conceded that regular monthly payments of £100 had been received from the second Respondent. Mrs MacDonnell stated that her clients would accept an arrangement where such monthly payments would continue to be paid.

19. In the circumstances, the tribunal determined that an order for payment should be made and that it would be appropriate to make a time to pay direction under Section 1 (1) of the Debtors (Scotland) Act 1987 obliging the Respondents to pay the sum of £100 per month. The tribunal came to that view notwithstanding that it did not have a relevant application for such a time to pay direction

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.

Legal Member
5 February 2024