



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 Rules of Procedure 2017

Chamber Ref: FTS/HPC/CV/23/2337

Re: Property at 18 Wardlaw Street Flat 16 or 3F4, Edinburgh, EH11 1TP (“the Property”)

Parties:

Ider Holdings Limited, 22 Great King Street, Edinburgh, EH3 6QH (“the Applicant”)

Mr Michael Greenhill, Miss Hayley Jane McDougall, 10 Broomhouse Loan, Edinburgh, EH11 3TS (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent(s) jointly and severally for payment of the undernoted sum to the Applicant(s):

Sum of SIX HUNDRED AND FORTY-FIVE POUNDS AND TWELVE PENCE (£645.12) STERLING

The First-tier Tribunal for Scotland (Housing and Property Chamber) made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, in the following terms:

The Respondent is required to pay the sum of FIFTY POUNDS (£50) STERLING per calendar month until the full amount has been paid. The first payment must be made no later than 14 days after intimation of the Order.

Background

1. An application dated 14 July 2023 was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondents in relation to rent arrears and damages costs accrued under a private residential tenancy agreement.

The Case Management Discussion

2. A Case Management Discussion (“CMD”) took place on 6 November 2023 by way of conference call. None of the parties appeared nor were they represented. No explanation was before the Tribunal as regards the Applicant’s failure to appear or be represented in order to move their application.
 3. Prior to the CMD the first-named Respondent, Mr Greenhill, had submitted a Time to Pay Application, in which he admitted the sum due and sought repayment terms at the rate of £50 per month. Opposition to the said Time to Pay Application was lodged by the Applicant in advance of the CMD. No response was lodged by the second-named respondent, Ms McDougall.
 4. The CMD was adjourned to a further CMD, in order that if the Applicant wishes to seek an Order for Payment and to oppose the Respondent’s Time to Pay Application, they must appear or be represented at the next CMD.
 5. A further CMD took place on 19 February 2024 by conference call. Ms Brannan appeared for the Applicant. There was no appearance by or on behalf of either of the Respondents.
 6. Ms Brannan on behalf of the Applicant submitted that there had been no appearance at the last CMD as she had incorrectly thought that appearance would not be required, following the submission of the Respondent’s Time to Pay Application and her email setting out her opposition to same. The Applicant submitted that she opposed the Time to Pay Application and that the monthly sum proposed was too low. It was submitted that some of the outgoings set out in the Time to Pay Application were unreasonably high, such as £100 for “phone” and £110 per month for “Internet and Sky.” The Applicant submitted that they had no faith that the instalment payments would be made. The Applicant confirmed that the sum sought in the application remained at £645.12.
- Findings in Fact
7. The Tribunal made the following findings in fact:
 - (i) The parties entered into a Private Residential Tenancy Agreement (“the Agreement”) which commenced 10 July 2020
 - (ii) In terms of the Agreement, the Respondents were obliged to pay a monthly rent of £650 to the Applicant;

(iii) The Respondents had failed to make payment of rent as fell lawfully due, had caused damage to the Property, and had accrued arrears and damages costs amounting to £645.12.

- Reasons for Decision

8. The Tribunal was satisfied that the Applicant was entitled to the sum sought of £645.12, and which sum was admitted by the first-named Respondent in his Time to Pay Application. The Tribunal considered the information submitted by the Respondent in his Time to Pay Application which set out his income and expenditure. The Tribunal noted that it would take just over 12 calendar months to repay the sum due, and it considered that this was a reasonable length of time, and that the sum proposed was a reasonable one, taking into account the Respondent's financial position as set out in the Time to Pay Application.

- Decision

9. The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order is granted against the Respondent(s) for payment of the undernoted sum to the Applicant(s):

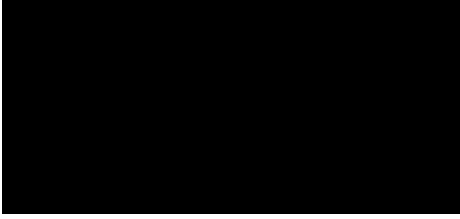
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Right of Appeal

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

Date: 19 February 2024