



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 (“The Act”)

Chamber Ref: FTS/HPC/CV/23/3815

Re: Property at 68 Mineralwell View, Stonehaven, AB39 3LA (“the Property”)

Parties:

Mrs Hilda MacKessack-Leitch, Sillerton, 61 Mayne Road, Elgin, Moray, IV30 1PD (“the Applicant”)

Mr Allen Simon Thain, 27 Netherhills Avenue, Bucksburn, Aberdeen, AB21 9DE (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member)

Decision (in absence of the Respondent)

[1] The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted the Application and made a Payment Order in favour of the Applicant against the Respondent in the sum of £2,720.00 with interest on that sum at the rate of 8 per cent per year from today’s date until payment.

Summary of Dispute

[2] The Applicant seeks a Payment Order for rent arrears said to have been accrued by the Respondent under a tenancy between the parties. The sum claimed is £2,720.00. The Respondent had submitted an application for a time to pay direction admitting liability for the claim and offering to pay the sum sought at the rate of £5.00 each month. This was opposed by the Respondent on the basis it would take over 45 years to pay off the debt.

The Case Management Discussion

[3] The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 12 April 2024. The Applicant was represented by her son, Mr William Dawson. There was no appearance by the Respondent. The Application and information about how to join the CMD had been served on the Respondent by Sheriff Officers. The Respondent had also obviously studied the papers as he had submitted the application for a time to pay direction.

[4] The Tribunal had subsequently emailed the parties reminding them that the Tribunal would be proceeding. The Respondent was emailed at an email address he had himself provided. Someone then introducing themselves as the Respondent's ex-partner then appeared to email back saying that the Respondent no longer used that email address. They provided a further email address. The Tribunal then emailed confirmation that the CMD would be proceeding as planned to this further email address.

[5] On the basis that the Application had been competently served, the Tribunal decided to proceed in the absence of the Respondent. Having heard from Mr Dawson and having considered all the paperwork before the Tribunal, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy agreement whereby the Applicant let the Property to the Respondent under a private residential tenancy agreement within the meaning of the Act.*
- II. *The Respondent vacated the Property with the sum of £2,720.00 lawfully due as arrears of rent to the Applicant.*
- III. *The Respondent has accepted liability for the sum claimed.*

Decision

[6] Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order in favour of the Applicant against the Respondent in the sum of £2,720 with interest on that sum at the rate of 8 per cent per year from today's date until payment.

[7] The Tribunal refused to grant the application for a time to pay a direction. £5.00 a month fell way short of representing any sort of reasonable offer. It would effectively render the debt null and void as far as the Applicant was concerned. It was not in the interests of justice to make a time to pay direction based on the information presented.

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.

A McLaughlin

Legal Member/Chair

12 April 2024

Date