



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/23/4502

Re: Property at 32, 9 Salamander Court, Edinburgh, EH6 7JP (“the Property”)

Parties:

Mr Graeme McDonald and Mrs Margaret Brannif McDonald, 81 Loudoun Road, Newmilns, Ayrshire, KA16 9HQ (“the Applicants”)

Mr Christopher Mackie and Mr Carlo Di Lorenzo, 32, 9 Salamander Court, Edinburgh, EH6 7JP (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member)

Decision (in absence of Mr Di Lorenzo)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondents in favour of the Applicants in the sum of THREE THOUSAND SEVEN HUNDRED AND SEVENTY-EIGHT POUNDS (£3778) STERLING and made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987. The order for payment will be issued to the Applicants after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents.

Background

- 1. This is an action for recovery of rent arrears raised in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).**

2. The application was accompanied by a copy of a Short Assured tenancy dated 10 October 2008, an AT5 dated 10 October 2008, a rent statement to 30 September 2023 and various emails with Mr Mackie.
3. On 16 January 2024 the Tribunal accepted the application under Rule 9 of the Regulations 2017.
4. On 28 February 2024, the Tribunal enclosed a copy of the application and advised parties that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 8 April 2024. The Respondents required to lodge written submissions by 20 March 2024. This paperwork was served on the Respondents by Sheriff Officers and the Executions of Service were received by the Tribunal administration.
5. Mr Mackie the Respondent made written representations on 20 March 2024 which indicated he had reached an agreement with the Applicants to pay the arrears by instalments of £30 per week.
6. On 29 March 2024, the Applicants’ agent sent an up to date rent statement and advised that a repayment agreement had been reached for the arrears to be cleared in four weekly instalments of £120 starting on 3 April 2024.

Case Management Discussion

7. The Tribunal proceeded with the CMD on 8 April 2024 by way of teleconference. The Applicant was represented by Ms Sanderson from Rettie and Company. Mr Mackie represented himself. There was no appearance by or on behalf of Mr Di Lorenzo despite the teleconference starting 5 minutes late. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
8. Ms Sanderson asked the Tribunal to grant a payment Order. Mr Mackie stated that he had reached an agreement with the Applicants that he would pay the arrears by instalments of £30 per week. Ms Sanderson accepted that position. She advised arrears stood at £3778, although she had not made an application to amend the sum of the arrears in this increased sum. Mr Mackie advised that he accepted the arrears stood at that figure and wanted to draw a line under his relationship with the Applicants and Rettie and Company and confirmed that he would have no opposition to the Order being granted for that amount. He advised that Mr Di Lorenzo was in Canada and they had not spoken since September 2023.

Reasons for Decision

9. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by both Ms Sanderson and Mr Mackie.

10. The Tribunal noted the terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen. The Applicants' agent had produced evidence of non-payment of rent. Mr Mackie accepted the arrears. Parties had reached an agreement that the arrears be repaid at the rate of £30 per week. The Tribunal was satisfied on the basis of the documents lodged, together with parties' submissions that an order for payment in favour of the Applicants be granted.

Decision

11. The Tribunal granted an order for payment of £3778 with a Time to Pay Direction for payment of £30 per week.

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.

Shirley Evans

8 April 2024

Legal Member

Date