



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 Private Housing (Tenancies) (Scotland) Act 2016 (“the 2016 Act”)**

**Chamber Ref: FTS/HPC/CV/23/3123**

**Property at 368H 3/R Strathmore Avenue, Dundee, DD3 6RU (“the Property”)**

**Parties:**

**TWL Properties Ltd, 22 Angus Gardens, Monifieth, Angus, DD5 4UE (“the Applicant”)**

**Mr James Peck, 368H 3/R Strathmore Avenue, Dundee, Angus, DD3 6RU (“the Respondent”)**

**Tribunal Members:**

**Josephine Bonnar (Legal Member) and Frances Wood (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment for the sum of £3415 should be granted against the Respondent in favour of the Applicant.**

**Background**

- 1. The Applicant seeks a payment order in relation to unpaid rent. A tenancy agreement and rent statement.**
- 2. The application was served on the Respondent by Sheriff Officer. Both parties were advised that a case management discussion (“CMD”) would take place by telephone conference call on 15 January 2024 at 2pm. The CMD took place on this date. The Applicant was represented by Mr Dymock. The Respondent participated.**

**Summary of Discussion at CMD on 15 January 2024**

- 3. The Tribunal noted that the Applicant had not lodged an updated rent statement prior to the CMD. Mr Dymock told the Tribunal that there had been 2 payments**

from Universal Credit since the application was lodged - £365 on 13 December 2023 and 12 January 2024. The total sum currently owed was £3020.

4. Mr Peck told the Tribunal that he sold his flat in Birmingham in 2020 and when he first rented the property, he used the proceeds of the sale to pay the rent. When he ran out of money, he found a job at the slaughterhouse in Perth in July 2023, but he lost this job in October/November and now receives universal credit. He had not contacted the Local Authority or obtained advice about his housing situation. He stated that wanted to repay the arrears but might not be able to do so until he gets a job. He would like to continue to live at the property. He admitted the arrears were owed. In response to questions from the Tribunal, Mr Peck said that he had no health issues or disabilities but that he had difficulty dealing with paperwork. He lived alone and had no dependants. He said that he asked Universal Credit to pay additional sums to the rent account, but they said that they could only pay the sum specified in the tenancy. He was looking for work and was re-training in the meantime.
5. Mr Dymock told the Tribunal that the Applicant is a limited company, but the sole directors are Mr and Mrs Leather. The company has a portfolio of 12 properties, some in the same building as the property. There is a portfolio mortgage over the properties. The directors have a large family, and the rental income does not generate enough for the family to live on so Mr Leather also has a job. The directors depend on the rental income to supplement the family income. The arrears of over £3000 have had an adverse financial impact. Mr Dymock said that there has been some correspondence from the Respondent in relation to repayment of the arrears, but no payments have been received.
6. Following an adjournment, the Tribunal determined that the CMD would be continued to a further teleconference CMD to allow the Respondent to obtain advice in relation to the related eviction application, his housing options, and his finances and to establish if he is able to make any repayment proposals regarding the arrears. The Tribunal issued a direction to the parties.
7. The parties were notified that a further CMD would take place by telephone conference call on 2 May 2024 at 10am. Prior to the CMD, the Applicant lodged an updated rent statement. The Respondent did not respond to the direction.
8. The CMD took place on 2 May 2024. The Applicant was again represented by Mr Dymock. The Respondent did not participate and was not represented.

#### **CMD on 2 May 2024**

9. Mr Dymock told the Tribunal that the Respondent is still residing at the property. There has been limited contact with him. He did not respond to an email, sent after the CMD. Mr Dymock also phoned him about a month ago. Mr Peck said that he would be moving out. However, he has been seen coming and going and a neighbour has complained about a smell from the property. The direct Universal Credit rent payments are still being received.

10. The Tribunal referred Mr Dymock to the rent statement lodged on 10 April 2024. This shows a balance of £3415 outstanding with payments of £365 being received every month. Mr Dymock stated that these are being made from UC but that no additional payments are being made by the Respondent and there is a £10 shortfall each month that is not being met. Since the statement was lodged a further payment of £365 was received on 13 April and a rent payment of £375 has become due on 1 May. The total now owed is £3425.
11. Mr Dymock told the Tribunal that he has no information about the Respondent's current circumstances. He stated that he believes that he is 30/35 years of age. There are concerns about the condition of the property. This is based on the report from the neighbour and Mr Dymock's observations when the gas safety check was carried out at the end of 2023. The property was dirty and untidy. There were piles of rubbish in the property. The Applicant intends to carry out work at the property before it can be re-let. This might include a new kitchen and bathroom, due to the neglect and damage by the Respondent. The Applicant's circumstances are as outlined at the previous CMD.
12. The Tribunal confirmed that the application could be amended to reflect the sum specified in the updated rent statement which had been intimated to the respondent - £3415.

### **Findings in Fact**

13. The Applicant is the owner and landlord of the property.
14. The Respondent is the tenant of the property in terms of a private residential tenancy agreement.
15. The Respondent is due to pay rent at the rate of £375 per month.
16. The Respondent has been in arrears of rent since 1 April 2023.
17. Most of the Respondent's rent is being met by Universal Credit payments which started on 13 December 2023.
18. There is a shortfall of £10 per month between the rent charge and the UC payments.
19. The Respondent has made no payments to reduce the arrears.
20. The Respondent owes the sum of £3415 in unpaid rent.

## **Reasons for Decision**

21. From the documents submitted and the information provided at the CMDs, the Tribunal is satisfied that the Respondent has incurred arrears of rent of £3415 and that the Applicant is entitled to a payment order for this sum.

## **Decision**

22. The Tribunal determines that a payment order should be granted against the Respondent.

## **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.**

**Josephine Bonnar, Legal Member**

**2 May 2024**

