



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/23/2247

Re: Property at 0/1, 18 Broompark Drive, Dennistoun, G31 2DP (“the Property”)

Parties:

Easilet Investments, 15 Myrtle Avenue, Lenzie, G66 4HW (“the Applicant”)

Miss Pierrette Tchialu, 0/1, 18 Broompark Drive, Dennistoun, G31 2DP (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of TWO THOUSAND SIX HUNDRED AND SEVENTY SIX POUNDS AND EIGHTY SEVEN PENCE (£2676.87) STERLING. The order for payment will be issued to the Applicant 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 Respondent.

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. A Case Management Discussion (“CMD”) was held on 23 January 2024. The Applicant was represented by Vincent Friel from 1-2-Let (Lettings & Sales) Ltd. Lorraine Brennan from 1-2 Let (Lettings & Sales) Ltd was also in attendance. Rona MacLeod, Solicitor from Shelter Scottish Housing Law Service appeared

on behalf of the Respondent. The case was heard together with case number FTS/HPC/EV/23/3052.

3. The CMD was continued to allow Ms MacLeod an opportunity to take further instructions as to whether the rent was due as there was a question in her mind as to whether the Property complied with the Repairing Standard in light of the correspondence submitted by the Applicant.
4. The Respondent lodged an Application for a Time to Pay Direction ahead of the continued CMD offering to pay £700 rent and arrears per month.

Case Management Discussion

5. The continued CMD was held on 29 April 2024. The Applicant was represented by Ms Wooley from Bannatyne Kirkwood France and Company. Vincent Friel from 1-2-Let (Lettings & Sales) Ltd was also in attendance. Rona MacLeod, Solicitor from Shelter Scottish Housing Law Service appeared on behalf of the Respondent. The case was heard together with case number FTS/HPC/EV/23/3052.
6. Ms Wooley advised that arrears had reduced to £2676.87. The Respondent had paid £1338 on 3 April 2024, £3000 on 26 January 2024 and £2500 on 28 December 2023. She submitted the Applicant was looking for an order for payment. The Applicant opposed the application for the Time to Pay Direction as the element the Respondent was proposing to pay towards the arrears was only £30 per month. On that basis the arrears would take over 7 years to clear.
7. Ms MacLeod moved that the application for the Time to Pay Direction be granted. The offer was as much as the Respondent could afford and was similar to what would be deducted direct from Universal Credit. As the Respondent was a nursing student Ms MacLeod was investigating whether the Respondent was entitled to an additional loan of about £3000 per annum. The lump sum payments had been made from the Respondent's student loans and money that she had put aside for rent.
8. With reference to the application for a Time to Pay Direction, the Tribunal noted that despite the Respondent having four children two of whom were at home and two of whom were at university, there was no reference to the Respondent receiving any money for child maintenance from her husband. Ms MacLeod was not aware that any such payment was being made to the Respondent. The Tribunal also queried the outgoings of the Respondent which at times at their highest exceeded her income and queried how she could afford to pay anything towards the arrears. Ms MacLeod explained that the Respondent's outgoings fluctuated hence some weeks the outgoings exceeded her income.

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 Ms Wooley and Ms MacLeod.
10. The Tribunal noted that parties were in agreement with regard to the material facts, namely the rent and the amount of the arrears. The Applicant had produced evidence of non- payment of rent with reference to the rent statements lodged. The Respondent admitted the arrears and lodged an application for a Time to Pay Direction to pay £700 per month. The Tribunal noted that the current rent was £669.50 per month. The Tribunal noted that on the current level of arrears, the arrears would take over 7 years to clear, assuming no further arrears were incurred. The Tribunal was concerned that the Respondent was stretched on her finances and was not satisfied that she would be able to maintain the additional small sum towards the arrears every month. The Tribunal was not satisfied that it was reasonable in terms of Section 1 of the Debtors (Scotland) Act 1987 to grant the application for the Time to Pay Direction and accordingly refused the same.

Decision

11. The Tribunal granted an order for payment of £2676.87. The decision of the Tribunal was unanimous.

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.

S. Evans

Shirley Evans

29 April 2024

Legal Member

Date