



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

Chamber Ref: FTS/HPC/CV/23/2121

Re: Property at 2/2 24 Tulloch Street, Glasgow, G44 4BZ (“the Property”)

Parties:

Mrs Marthe Law, 5 Ailort Avenue, Glasgow, G44 3NJ (“the Applicant”)

Mr Ross Owens, 2/2 24 Tulloch Street, Glasgow, G44 4BZ (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for of £8830.00 (EIGHT THOUSAND EIGHT HUNDRED AND THIRTY POUNDS) with interest at 8% per annum from the date of this decision, namely 6th June 2024.

Background

1. An application was received by the Housing and Property Chamber dated 26th June 2023. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 19th September 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 27th October 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 10th October 2023.

3. On 21st September 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service. This was evidenced by Certificate of Intimation dated 21st September 2023.
4. The case was conjoined with case FTS/HPC/EV/23/2120
5. A CMD was held on 27th October 2023 at 10am by teleconferencing. The Applicant was present and represented herself. Ms Christine Worthington was present as support for the Applicant. She took no part in the CMD. The Respondent was present and represented himself. The Applicant noted that there have been no payments for some time. The Tribunal said that her rent account was not clear. In order for the Tribunal to grant an order it needs to be clear exactly when monies have come in to address what rent payments. The Tribunal will need to continue to another date to allow for the rent account to be produced. The Tribunal noted that if payments continue to accrue the Applicant is entitled to ask for the amount to be increased within 14 days of the next CMD. It was noted by the Tribunal that the Applicant seeks £100 instead of the 8% per annum interest that is detailed in the lease. This is not appropriate to grant as the interest arises from the date which the Tribunal makes an award. To grant £100 now would not give the Respondent the opportunity to address the arrears prior to that amount of interests accruing. It would be an unreasonable cost. The Applicant can write to the Housing and Property Chamber to amend her application to include interest at 8% per annum as per the lease. The Tribunal noted that sheriff officers fee of £66.17 was included in the application. This is a reasonable cost in terms of the lease. The case was continued for the Applicant to lodge a rent account in the form requested by the Tribunal.
6. On 22nd December 2023, all parties were written to with the date for the Case Management Discussion ("CMD") of 9th February 2024 at 10am by teleconferencing.
7. On 18th January 2024, the Applicant emailed the Housing and Property Chamber attaching a rent account for the period 9th April 2019 to 25th January 2024 showing arrears of £7450. This email also attached a text message from the Respondent notifying her of his mother's death in July 2023 and emails with the DWP and Glasgow City Council.
8. A CMD was held on 9th February 2024 at 10am by teleconferencing. The Applicant was present and represented herself. Ms Christine Worthington was present as support for the Applicant. She took no part in the CMD. The Respondent was not present and not represented. The Applicant said that the Respondent is still in the Property. He has still not paid his rent charge. She still wishes to sell the Property. She noted that she is now seeking interest at 8% as per the lease. The Tribunal noted that in her eviction application the Pre Action Requirements have not been submitted. This is required before the Tribunal can consider granting an order for eviction. The Applicant said that she has written to him. She will find this information and submit it. She sent Whatsapp messages to the Respondent with all of the Pre Action Requirements. This was sent on 17th January 2024. The Tribunal noted that this is after the application was raised. She said that the arrears are now £7450.

The Applicant will lodge the Pre Action Requirements. If she is not able to locate this or reviews her papers and finds that the Pre Action Requirements have not been sent prior to the application being lodged then the Applicant will consider her position whether she needs to start the process again for the eviction case. This case will continue to further date to allow the Applicant to amend the amount sought. If she does not proceed with the eviction case and starts again she can still ask that this order be granted. The Respondent did not raise any issues with the amount or that the arrears were due at the previous CMD. The CMD was continued to allow the Applicant to amend the application when she has decided whether the eviction case is competent or not. The amount will include the Sheriff Officers fees of £66.17 plus interest at 8% per annum. The Applicant can amend the amount sought by emailing in no less than 14 days before the next CMD.

9. On 3rd May 2024, all parties were written to with the date for the Hearing of 6th June 2024 at 10am by teleconferencing.
10. On 16th May 2024, the Applicant's solicitor emailed the Housing and Property Chamber removing ground 12A, lodging a letter confirming that an estate agent had been instructed (both for the eviction case) and confirming that the case was to proceed under ground 1. A rent statement was lodged for the period 9th April 2019 to 25th April 2024 showing rent arrears of £8830 with no payments since November 2022.

The Hearing

11. A hearing was held on 6th June 2024 at 10am by teleconferencing. The Applicant was not present but was represented by Ms Anna Bruce, Solicitor, Jones Whyte Solicitors. The Respondent was present and represented himself.
12. Ms Jones said that the Respondent has not made payments. The arrears sought £8830. Since the amendment was made the arrears have increased by £450 (which is one months rent) to £9280.
13. The Respondent does not dispute the arrears. He has not paid over the Housing Element of Universal Credit as he needed that money to pay bills as the cost of living is very high. He now hopes to address the arrears by paying £800 per month from 25th June 2024. He will pay more when he has more. He has only returned to work in the last two weeks so will not be paid before that point. He is self employed but has had his clients return to him. He is confident about the payments.
14. The Tribunal was satisfied that it was appropriate to grant an order particularly given that the Respondent had admitted the debt.

Findings and reason for decision

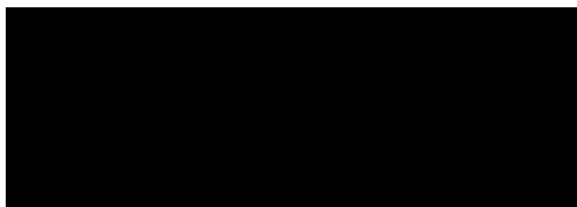
15. A Private Rented Tenancy Agreement commenced 9th April 2019.
16. The Respondent persistently failed to pay his rent charge of £450 per month. The rent payments are due to be paid on 25th day of each month. He has not paid any rent since November 2022.
17. The Respondent was awarded £300 per month from Universal Credit as Housing Element. He did not pay that amount to the Applicant.
18. The Respondent has not sought money advice.
19. The Respondent has not sought a Discretionary Housing Payment to supplement his Universal Credit Housing Element payment.
20. The Respondent does not dispute that the arrears are due to the Applicant.
21. The arrears sought total £8830 with interest at 8% per annum. The current arrears surpass that amount and are £9280.

Decision

22. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £8830 with interest at 8% per annum.

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.



 G.Miller
_____ Legal Member/Chair

6th June 2024

Date