



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

Chamber Ref: FTS/HPC/CV/24/0184

Re: Property at 153 Baird Hill, East Kilbride, South Lanarkshire, G75 0EQ (“the Property”)

Parties:

James Fitzsimmons, 105 Alberta Avenue, East Kilbride, G75 8AZ (“the Applicant”)

Patience Wilson, 153 Baird Hill, East Kilbride, South Lanarkshire, G75 0EQ (“the Respondent”)

Tribunal Members:

Valerie Bremner (Legal Member) and Helen Barclay (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order be granted in favour of the Applicant and against the Respondent in the sum of £3440.27 with interest at the rate of 5.25% until paid.

Background

1.This application for a payment order in terms of Rule 111 of the tribunal rules of procedure was first lodged with the tribunal on 12 January 2024 and accepted by the tribunal on 12th March 2024. A case management discussion was fixed for this and a related eviction order application with reference FTS/HPC/EV/24/0180 for Friday 5th July 2024 at 10.00am.

Case Management Discussion

2.The case management discussion was attended by Mrs Saddiq solicitor of TCH Law on behalf of the Applicant. There was no appearance by or on behalf of the Respondent and the Tribunal noted that the applications, supporting papers and the

date of the case management discussion had been intimated to the Respondent by Sheriff Officer putting these papers through the letterbox at her address on 3rd June 2024. The tribunal was satisfied that the Respondent had received fair notice of the applications and case management discussion and that the Tribunal could proceed in her absence.

3.The Tribunal had sight of the applications, a tenancy agreement, a Notice to Leave in terms of Ground 12 A dated 13 November 2023,an execution of service of the Notice to Leave on the Respondent on 14th November 2023 by Sheriff Officer, a letter sent with the Notice to Leave, a tenant rent statement and reconciliation dated December 2023, a notice in terms of section 11 of the Homelessness etc (Scotland) Act 2003 sent the local authority dated 12 January 2024 together with e mail confirmation of notification to the local authority and two letters sent to the Respondent in terms of the pre action protocol.

4.The parties had entered into a private residential tenancy at the property with effect from 21st May 2020.The monthly rent payable in terms of the tenancy agreement was £450.At the start of the tenancy the Respondent was known to be in work as a support worker. It was not known if she has children. Rent arrears started to accrue in terms of the tenancy early on and since 2021 calls were made every week to the Respondent to discuss the rent arrears. Sometimes the rent was paid and sometimes it was not or was partly paid. The Respondent advised that she was struggling to get shifts at work and in April 2024 it was understood that she may be no longer working and she had referred in contact with the Letting Agents to waiting for another property. An application had been made to the DWP for direct payment of any benefit. The Letting Agents understood that the Respondent may not have been working for up to two years of the tenancy. There was no information to suggest that the arrears had accrued due to any delay or failure in the payment of any benefit. During the period when the rent arrears accrued at no time did the Respondent contact the Letting Agent to come to any arrangement regarding rent payment or payment of the arrears. The Respondent had made only one payment towards rent in 2024 and as of December 2023 the rent arrears had reached £3440.27.

5. Mrs Saddiq advised the Tribunal that rent arrears had reached the sum of £5760.65 and the Respondent had made one payment of £400 towards the rent arrears on 19th June 2024.She was seeking payment order in the sum of £3440.27, the rent arrears outstanding as of December 2023 and was seeking interest at a rate within the discretion of the Tribunal.

6.Mrs Saddiq advised the Tribunal that the Applicant landlord intended to sell the property when it became vacant as this was his only rental property was no longer economical for him to rent out the property .Rent arrears had started since the tenancy itself had started and there had been no contact from the Respondent or proposals for payment of the arrears which he could consider.

7.The Tribunal considered that it had sufficient information upon which to make a decision and that the proceedings had been fair.

Findings in Fact

8. The parties entered into a tenancy agreement at the property with effect from 21st of May 2020.

9. The monthly rent payable in respect of the property as set out in the tenancy agreement is £450 per month.

10. From early on in the tenancy rent arrears started to accrue and in some months no rent was paid whilst in others part payment of rent was made.

11. As of the beginning of November 2023 rent arrears had reached £3100, a sum in excess of 6 months' rent due in terms of the tenancy agreement.

12. During the period of the tenancy in which the rent arrears accrued the Respondent was known to be working but she had contacted the Letting Agents at one stage to say that she was having trouble getting shifts at her job.

13. It is understood that the Respondent may have been unemployed for a period of the tenancy but there is no suggestion that the rent arrears have accrued due to any delay or failure in the payment of any benefit.

14. The Letting Agent acting for the Applicant contacted the Respondent frequently to seek to discuss the rent arrears but this was not successful and they applied to the DWP for direct payment of rent as they understood the Applicant may not be working.

15. A rent statement dated December 2023 shows that the rent arrears had reached the sum of £3440.27 at that time and the rent arrears have reached £5760.65 as at the date of the case management discussion, the Respondent having made one payment of £400 towards the rent in June 2024.

16. The Respondent has accrued substantial rent arrears in terms of the tenancy agreement and at no time during the tenancy has she contacted the Applicant or his agents to seek to make a payment plan for the rent arrears or make any proposals for payment.

17. The sum of £3440.27 is lawfully due by the Respondent to the Applicant in terms of rent arrears accrued during the tenancy up to December 2023.

Reasons for Decision

18. The Tribunal considered that it was reasonable to issue a payment order in this application as rent arrears had accumulated over most of the tenancy and there had been no contact from the Respondent to explain the situation or offer payment plan despite efforts by Letting Agents to discuss the arrears. The interest rate added to the payment order reflects the use value of the money in line with the current Bank of England base rate.

Decision

The Tribunal determined that a payment order be granted in favour of the Applicant and against the Respondent in the sum of £3440.27 with interest at the rate of 5.25% until paid.

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.

V Bremner

Legal Member/Chair

5/7/24

Date