



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

Chamber Ref: FTS/HPC/CV/23/2427

Re: Property at 9 Bankpark Grange, Tranent, EH33 1ER (“the Property”)

Parties:

Stamford Hire Limited, C/O Direct Lettings, 5/6 Melville Place, Edinburgh, EH3 7PR (“the Applicant”)

Mrs Trudie Murphy, 9 Bankpark Grange, Tranent, EH33 1ER (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £3919.88 (THREE THOUSAND NINE HUNDRED AND NINETEEN POUNDS AND EIGHTY EIGHT PENCE).

Background

1. An application was received by the Housing and Property Chamber dated 20th July 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 to the amount of £1640.
2. On 9th November 2023 all parties were written to with the date for the Case Management Discussion (“CMD”) of 8th January 2024 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 30th November 2023.

3. On 13th November 2023, sheriff officers served the letter with notice of the CMD date and documentation the Respondent personally. This was evidenced by Certificate of Intimation dated 13th November 2023.
4. On 22nd December 2023, the Applicant's representative emailed the Housing and Property lodging an up to date rent statement for the period 15th January 2022 to 15th December 2023. It detailed that that the arrears had increased to £6463.13 and requested that the amount sought be increased.
5. On 4th January 2024, the Respondent's representative, Mr Mark Coull from Haddington CAB, emailed the Housing and Property Chamber requesting a postponement as he had only been instructed that day. The Tribunal granted the postponement and a new date was set.
6. On 9th February 2024 all parties were written to with the date for the Case Management Discussion ("CMD") of 25th March 2024 at 2pm by teleconferencing.

The Case Management Discussion

7. A CMD was held 25th March 2024 at 2pm by teleconferencing. The Applicant was not present but was represented by Ms Jacqueline McAinsh, Property Manager, Direct Lettings. The Respondent was not present but was represented by Mr Mark Coull, Advocacy Services Coordinator, Haddington CAB.
8. Ms McAinsh said that the outstanding amount is now £4104.26. She noted that the arrears will remain at that level as there has been a change in ownership of the Property. The Applicant now no longer owns it as of 6th March 2024. The arrears are calculated up until that date. £463.13 in December 2023 and £213.13 in January 2024. Taking into account the payments made the outstanding amount due is £4104.26. Ms McAinsh said there was an offer of payment at a rate of £500 per month. This was not made by the Respondent. The Tribunal queried if she had done an income and expenditure form to determine if the Respondent could afford this amount. She had not but noted that the Respondent had expensive car which she thinks would cost around £20000. The Tribunal did not accept that this was an accurate valuation as it was not known how much the car was worth or how she had obtained it. Ms McAinsh noted that prior to this current period the Respondent had her payments made directly by the DWP. However, those direct payments stopped. The non payments caused a great deal of stress upon the Applicant who sold the Property as a result.
9. Mr Coull said that the arrears were not disputed. The Respondent's youngest child, who is one, has been in hospital over the last three weeks with third degree burns and the Respondent has been diagnosed with a significant incurable condition. The Respondent's son is currently in hospital awaiting skin grafts. The Respondent lives with her two other children who are aged 12 and 20. The Respondent had a carer who was in charge of her finances but had stopped her Universal Credit payments being made straight to the Applicant and arranged for the payments to be made directly. Mr Coull said that the

Respondent has not had her income and expenditure gone over fully yet due to the situation with her son . His colleague is to meet with the Respondent in the next week on 4th April 2024. Mr Coull motioned for a continuation of the CMD. The Tribunal asked if his colleague would be discussing a Time To Pay Direction (“TTPD”). He hasn’t but will get his colleague will discuss it with her.

- 10.. The Tribunal discussed if Mr Coull disused with the Respondent if she had considered a TTPD. A discussion followed regarding a TTPD. It was explained that this would allow the Respondent to pay up the outstanding arrears. The Tribunal noted that the Respondent would need to be active in applying for the TTPD. Mr Coull or the Respondent will need to contact the Housing and Property Chamber to request that a TTPD be sent to Mr Coull. If the Respondent is looking to seek money advice to help her complete the TTPD then this appointment will need to be made and attended in advance of the next CMD so that the Applicant can consider the contents of the TTPD. Once the TTPD has been completed it will need to be lodged with the Housing and Property Chamber. The Applicant and Tribunal will then be sent a copy of it. If the Applicant agrees to the amount offered then the case will be dealt with administratively and will not proceed to the CMD where the Tribunal will make a decision on the TTPD. If the amount offered is not accepted by the Applicant then the case will proceed to the CMD. The Tribunal noted that a TTPD allows for the outstanding amount to be paid in instalments. Should those instalments stop before the debt is repaid then the Applicant is entitled to a full order for the remaining amount. The Tribunal also noted that should the Respondent decide not to proceed with a TTPD it will be most likely that at the next CMD the Tribunal will grant the full order as the debt has been admitted. Mr Coull understood these points. He was have his colleague discuss this with the Respondent and to look at lodging a TTPD if she wishes to pay in instalments. His colleague can assist her with competing the form. Ms McAinsh said that she would consider any offer which was made but would reserve her position until she had seen what amount was offered.
11. The Tribunal continued to a further CMD to allow for the Respondent’s representative to take instructions to consider a TTPD and for the Respondent to consider lodging a TTPD. The Tribunal was satisfied that the outstanding amount for £3750 was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.
12. On 10th July 2024 the Respondent emailed the Housing and Property Chamber advising that the Property had been sold as of March 2024. She attached a letter from Direct Lettings dated 3rd March 2024 confirming the sale of the Property and the new owner being BPG Homes Ltd.

The Case Management Discussion

13. A CMD was held 5th August 2024 at 10am by teleconferencing. The Applicant was not present but was represented by Ms Jacqueline McAinsh, Property Manager, Direct Lettings. The Respondent was not present and not represented there was no email indicating the reason for the Respondent or her representative’s absence. The Tribunal proceeded in terms of Rule 29 of the Rules.

14. Ms McAinsh said that there has been no communication from either the Respondent or her representative. The Respondent is paying £36.87 per month through a direct Universal Credit payment to the arrears. Her full rent charge is also being paid by Universal Credit. There have been payments of this arrears payment in April 2024, May 2024, June 2024 and July 2024. This has reduced the arrears from £4104.23 to £3919.88. The Applicant continues to instruct Ms McAinsh to seek an order for payment. The amount due is up to the end of the period which the Applicant owned the Property, namely 6th March 2024.
15. The Tribunal noted that there has been no TTPD lodged. The Respondent, through her representative, admitted the arrears at the last CMD. The Tribunal considered it appropriate to grant an order for payment.

Findings and reason for decision

16. A Private Rented Tenancy Agreement commenced 15th March 2019.
17. The Respondent persistently failed to pay her rent charge of £1620 per month. The rent payments are due to be paid on fifteenth day of each month.
18. The Respondent is paying the debt at £36.87 per month by Universal Credit direct payments.
19. The Respondent has admitted the debt.
20. The arrears sought total £3919.88.

Decision

21. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £3919.88.

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.

Gabrielle Miller

5th August 2024

Legal Member/Chair

Date