



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 Housing (Scotland) Act
2014**

Chamber Refs: FTS/HPC/CV/23/3650

Property at 2/1, 316 Gartcraig Road, Glasgow, G33 3PB (“the Property”)

Parties:

Lowther Homes Limited, 25 Cochrane Street, Glasgow, G1 1HL (“the Applicant”)

**Mr Damian Roginski, 2/1, 316 Gartcraig Road, Glasgow, G33 3PB (“the
Respondent”)**

Tribunal Members:

Josephine Bonnar (Legal Member) and Ahsan Khan (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 £11,231.77 with
interest at the rate of 7% per annum from the date of this decision, should be
granted against the Respondent in favour of the Applicant.**

Background

- 1. The Applicant seeks an order for payment in relation to unpaid rent. A tenancy agreement and rent statement were lodged with the application.**
- 2. A copy of the application was served on the Respondent and the parties were notified that a case management discussion (“CMD”) would take place by telephone conference call on 19 March 2024 at 10am. Prior to the CMD, the Applicant lodged an updated rent statement and a request to amend the sum claimed in the application to £11,119.99.**
- 3. The CMD took place on 19 March 2024. The Applicant was represented by Mr Adams, solicitor. The Respondent participated. A related application under reference EV/23/3648 was also discussed.**

Summary of discussion at CMD

4. Mr Roginski told the Tribunal that he does not dispute the sums are due. He said that he has had problems with health and addiction and that he has not taken the opportunities offered by the Applicant to assist him. However, he wants to stay in the property and be given the chance to pay the arrears. As he is about to turn 35, his Universal credit will shortly increase. He has also applied for ADP. His family home in Poland is due to be sold and this will provide a lump sum to apply to the arrears. He stated that he has had problems with back pain, depression and addiction issues. He has made some efforts to get assistance with the latter. He is keen to stay at the property, partly because he does not want to leave the area. He has close associations with a local food bank and volunteers there. The payment to the rent account of £4200 was a universal credit backdate. He was refused a DHP
5. Following a short adjournment, the Tribunal advised parties that the application for possession (EV/23/3648) would proceed to a hearing to take place at Glasgow Tribunal Centre. Mr Adams asked the Tribunal to continue the payment application to the same date, as the arrears might increase. The Tribunal issued a direction for further information and documents.
6. The parties were notified that a hearing would take place at Glasgow Tribunal Centre on 30 July 2024. Prior to the hearing the Applicant lodged submissions and an updated rent statement showing a balance due of £11,293.77
7. The hearing took place on 30 July 2024. The Applicant was again represented by Mr Adams and the Tribunal heard evidence from Mr Aidan Williams. The Respondent attended and brought copies of medical referral letters relating to his mental health and addiction issues and a letter confirming he had been awarded a DHP of £16.45 per week until April 2025.

The Hearing

8. Mr Williams told the Tribunal that the updated rent statement is still accurate. A further payment had been due on 20 July, but the direct debit failed. This has happened on several occasions. Mr Roginski had set up two payments a month to cover the shortfall between the rent and the UC and pay something to the arrears, but the payments often fail. Otherwise, the sum of £556.97 is coming from UC. He does not know if this includes the DHP or not. Mr Williams also told the Tribunal that both he and his predecessor have made every effort to assist Mr Roginski with his rent arrears. They were made aware of his mental health and addiction issues and worked with him to get his UC sorted out.
9. Mr Roginski confirmed that the sum shown on the updated rent statement is correct. He said that he has had difficulty with his additional payments because they are about a third of his benefit income. The result is that he has to rely on the foodbank for food. He told the Tribunal that he is hoping to get work, is still waiting for a decision on his ADP claim and still expects a lump sum from the sale of his mother's house. If he can stay in the property, he hopes to be able to pay off the arrears. Otherwise, he does not think he will be able to do so as

he has other debts and may have to consider bankruptcy. Mr Roginski said that he was not sure if the DHP is included in the payment going direct to the landlord, but it is not being paid to him.

Findings in Fact

10. The Applicant is the owner and landlord of the property.
11. The Respondent is a tenant of the property in terms of a private residential tenancy agreement. There is a joint tenant who does not live at the property.
12. The Respondent is due to pay rent at the rate of £573.68 per month.
13. Clause 4.3 of the tenancy agreement states that interest will be charged on late payments of rent at the rate of 2% above the base rate of the Royal Bank of Scotland.
14. The Respondent has been in arrears of rent since February 2021.
15. Most of the Respondent's rent is currently being met by Universal Credit payments and a discretionary housing payment.
16. There is a shortfall between the rent charge and the benefit payments.
17. The Respondent has made some additional payments to reduce the arrears but some of these payments have not been honoured by his bank due to insufficient funds. The arrears are continuing to increase.
18. The Respondent owes the sum of £11,231.77 in unpaid rent.

Reasons for Decision

19. From the documents submitted, the information provided at the CMD and the evidence at the hearing, the Tribunal is satisfied that the Respondent has incurred arrears of rent of £11,231.77 and that the Applicant is entitled to a payment order for this sum. The Tribunal is also satisfied that interest should be applied at the contractually agreed rate in terms of Rule 41A(1) and(2)(b) of the Procedure Rules.

Decision

20. 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

Josephine Bonnar, Legal Member

15 September 2024