



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/23/0095

Re: Property at 66A Broomlands Street, Paisley, PA1 2NL (“the Property”)

Parties:

Mr Balbir Singh, 40 Chapelton Crescent, Alloway, KA7 4TZ (“the Applicant”)

Mr Gregor Hill, 66A Broomlands Street, Paisley, PA1 2NL (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Gordon Laurie (Ordinary Member)

Decision (in absence of the Applicant and Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the application be refused.

Background

1. The application submitted on 10 January 2023 (as amended after acceptance) sought a payment order against the Respondent in respect of rent arrears, amounting to £5,250 as at 24 September 2023. Supporting documentation was submitted. Following initial procedure, the Tribunal had accepted the application on 24 August 2023, together with a conjoined application for eviction (reference FTS/HPC/EV/23/0094) and both applications were calling for a Case Management Discussion (“CMD”) today.
2. Previous CMDs took place on 26 October 2023, 30 January 2024 and 23 April 2024. Both applications were adjourned until 30 August 2024 to allow a further opportunity for the rent arrears to be cleared. By 23 April 2024, the arrears had been reduced from the original amount of £5,250 to £670.

Case Management Discussion

3. A further CMD took place by telephone conference call on 30 August 2024 at 10am and was attended again by Mrs Jacqueline McLelland, Manager and Ms Daryl Harper, Assistant Manager, both of Castle Residential who were representing the Applicant. The Respondent did not attend and, again, no written representations had been lodged by the Respondent prior to the CMD. Nor had any further correspondence been lodged on behalf of the Applicant, although the Tribunal had instructed at the previous CMD that the Tribunal be kept advised.
4. Mrs McLelland advised the Tribunal that the rent arrears had now been completely cleared by the Respondent, although this was only done last week, not around May 2024 as had been anticipated at the previous CMD. Mrs McLelland confirmed that this had always been the pattern, where the Respondent only makes contact/payment in the run-up to this Tribunal application calling again. Mrs McLelland confirmed that she had advised the relevant local authority/Housing Association that the rent arrears had now been cleared but has not yet heard anything further in response regarding the Respondent's housing application. They do not know at this stage how much longer the Respondent will be in occupation or what will happen with future rent payments.
5. The Tribunal adjourned to discuss the application in private and, on reconvening, advised that this application would now be refused/dismissed as there was now a nil balance owing by the Respondent and the Tribunal did not consider it appropriate in the circumstances to adjourn this application any further. It was explained that, should further rent arrears be incurred, a separate application would require to be lodged on behalf of the Applicant. The Applicant's representatives were thanked for their attendance and informed that the relevant paperwork would follow.

Findings in Fact

1. The Applicant is the owner and landlord of the Property, the former joint owner (the Applicant's late wife) having died on 16 August 2022.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 7 August 2020.
3. The rent in terms of the tenancy was £450 per calendar month.
4. Rent arrears started to accrue in December 2021 and amounted to £4,150 when this application was lodged and £5,250 when this application was subsequently amended in September 2023.
5. During the course of this application, the arrears have been reduced and the outstanding balance is now zero.

6. The Respondent currently remains in occupation of the Property.
7. The Respondent has not lodged any written representations opposing the claim nor attended any of the CMDs.
8. The Respondent had been called upon to make payment in respect of the rent arrears and has now done so.
9. There is now no sum owing by the Respondent to the Applicant in respect of rent arrears.

Reasons for Decision

1. The Tribunal considered all of the background papers including the application and supporting documentation, and the oral information given at the CMD on behalf of the Applicant.
2. There now being no sums owing by the Respondent to the Applicant in respect of rent arrears in terms of this application, the Tribunal concluded that, in the circumstances, it was appropriate to refuse the application at the CMD today.

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.

N. Weir

Legal Member

30 August 2024
Date