

Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/1477

Re: Property at 56/3, Wester Hailes Park, Edinburgh, EH14 3AQ (“the Property”)

Parties:

Places For People Homes Limited, 2 Crescent Office Park, Clarks Way, Bath, BA2 2AF (“the Applicant”)

Mr Saul Catto, Mr Ryan Thomas, 56/3, Wester Hailes Park, Edinburgh, EH14 3AQ (“the Respondents”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Carol Jones (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Eight thousand two hundred and forty five pounds (£8245) Sterling together with interest at the rate of four per cent per annum from the date of decision until payment

Background

1. By application to the Tribunal the Applicant sought an order for payment in the sum of £4895 against the Respondents in respect of unpaid rent arrears. In support of the application the Applicant provided a copy of the tenancy agreement between the parties and a rent statement.
2. By Notice of Acceptance of Application dated 23 April 2024 the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. The application was therefore referred to a Case Management Discussion. A copy of the application paperwork together with notification of the date and time of the Case Management Discussion and

instructions on how to join the teleconference was intimated to the Respondents by Sheriff Officers.

3. On 24th July 2024 the Tribunal received an email from the first named Respondent, Saul Catto. He gave consent to communication by email and advised that he was offering the Applicant £1500 per month, to be paid on the first of each month. He further confirmed that he was content with interest at the rate of 4% per month.
4. On 1st August 2024 the Applicant's representative submitted an updated rent statement and requested amendment of the sum sought to £8245 as per the current balance of arrears. The Applicant's representative provided a further rent statement by email on 19th August 2024.

Case Management Discussion

5. The Applicant was represented at the Case Management Discussion by Mr Ross O'Donnell of Patton and Prentice Solicitors. Neither Respondent was present. The Tribunal noted that they had both been served with the application paperwork which included notification of the date and time of the Case Management Discussion, together with instructions for joining the teleconference. The Tribunal therefore determined to proceed in their absence. Mr O'Donnell was then invited to make submissions on the application.
6. Mr O'Donnell confirmed that the Applicant sought an order for payment in the amended sum of £8245. The tenancy between the parties was a private residential tenancy which had commenced on 31st August 2022. The initial rent was £825 however this was increased, following service of a rent increase notice, to £849 from 1st October 2023. In early 2023 arrears began to accrue on the account. Some payments were made by the Respondents to reduce or maintain the level of arrears however the arrears continued to accrue. There had been no payments since 28 March 2024. He noted the terms of Mr Catto's email, in which Mr Catto accepted the debt was due. With regard to Mr Catto's payment offer, Mr O'Donnell advised that Mr Catto had made similar offers in the past. No payments had been received and Mr Catto had been advised by Mr O'Donnell's colleague that the Applicant was no longer prepared to enter into any payment agreement.
7. Mr O'Donnell advised that his colleague had been in correspondence with Mr Catto, in which Mr Catto had confirmed his awareness of the Case Management Discussion. Mr Catto had however advised that he did not intend on being present primarily due to work commitments, but also because he would be busy moving his things out of the property. Mr Catto confirmed that it was his intention to leave the property by the end of the month. The second named Respondent, Mr Thomas, was believed to have left the property approximately eight months ago, however he had not given formal notice of termination.

Findings in Fact

8. The parties entered into a Private Residential Tenancy Agreement dated 30 August 2022.
9. The tenancy between the parties was a private residential tenancy as defined by section 1 of the 2016 Act.
10. In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £825 per calendar month.
11. The rent was subsequently increased to £849 per month, with said increase taking effect from 1st October 2023.
12. As at the date of the Case Management Discussion arrears in the sum of £8245 were outstanding.
13. Despite repeated requests the Respondents have refused or delayed to pay the outstanding arrears.

Reasons for Decision

14. The Tribunal was satisfied that it had sufficient information upon which to make a decision at the Case Management Discussion in the absence of the Respondents. Both had been served with the application paperwork which the first named Respondent had responded to. The Tribunal also had regard to Mr O'Donnell's submissions regarding the correspondence between the Applicant's representative and the first named Respondent, in which the latter had stated that he did not intend on appearing at the Case Management Discussion, as well as the fact that the second named Respondent was no longer residing at the property. The Tribunal therefore concluded that it would not be prejudicial to the Respondents for a decision to be made following the Case Management Discussion. They had not sought to put forward any defence to the application and there were therefore no issues to be resolved that would require a hearing to be fixed.
15. The Tribunal was satisfied based on its findings in fact that the Respondents were liable to pay the Applicant the sum of £8245 under the terms of the tenancy agreement between the parties. There was nothing before the Tribunal to contradict the evidence put forward by the Applicant in support of the application.

16. The Tribunal therefore made an order for payment in the sum of £8245. The Tribunal further awarded interest in the sum of 4% per annum on that amount from the date of this decision until payment.
17. The Applicant had sought an award of expenses in this case. The Tribunal can only make an award of expenses where a party has behaved unreasonably in their conduct of the proceedings. The Tribunal did not consider the bar for expenses had been met in this case. The Respondents had not attended the Case Management Discussion and had not taken any steps to prolong the proceedings without good reason, therefore the Tribunal determined to make no award of expenses.
18. The decision of the Tribunal was unanimous.

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.

Ruth O'Hare

21ST August 2024

Legal Member/Chair

Date