



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/24/1022

Re: Property at 55 Clachan Road, Rosneath, G84 0RJ (“the Property”)

Parties:

John Wright, Flat 1/3 30 Handel Place, Hutchesontown, Laurieston, Glasgow, G5 0TP (“the Applicant”)

Claire Hall, 55 Clachan Road, Rosneath, G84 0RJ (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member) and Ann Moore (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of £4,074.03 together with interest at the rate of 8% per annum from the date of the order. The Tribunal made a time to pay direction that the respondent is required to pay the sum of £250 per month until the full amount has been repaid.

Background

1. By application submitted on 29 February 2024 the applicant seeks an order for payment in respect of rent arrears. The application was heard alongside conjoined application FTS/HPC/EV/1021 seeking an order for eviction on the ground that the applicant intends to sell the property.
2. The applicant lodged the following documents with the application:
 - Copy tenancy agreement
 - Rent statements
 - Copy correspondence between parties

3. Prior to the case management discussion the respondent lodged a time to pay application offering to repay the debt at the rate of £150 per month. The respondent also lodged various email correspondent and information relating to the condition of the tenancy.
4. A case management discussion (“cmd”) was assigned for 16 September 2024.

Case management discussion – 16 September 2024- teleconference

5. The applicant was represented by Ms Campbell-Hynd, Solicitor, TCH Law. The respondent appeared on her own behalf.
6. Ms Campbell Hynd sought an order for payment in the amount specified in the application. In advance of the cmd an updated rent account had been lodged which showed that outstanding arrears amounted to over £8300. Ms Campbell-Hynd stated that no payment had been made towards the rent since December 2023. The monthly rent due in respect of the property was £610. Ms Campbell-Hynd opposed the time to pay direction on the basis that it would take an extended period of time to repay the arrears at that rate. She highlighted that the respondent failed to address why she had not paid the rent and queried where the rent money had gone. She highlighted that the arrears were now very high.
7. The respondent made some changes to the income which had been stated in the application for a time to pay direction. She stated that her income fluctuated due to the nature of her employment. She advised that in the most recent month her income was approximately £2300 in total made up of income from her employment as a child care and education worker and benefits comprising universal credit, child benefit and Scottish child payment. She confirmed that her outgoings were £1,600 including rent which she had not recently been paying. She stated that she wished to increase the amount being offered to £250 per month.
8. In relation to the reasons she had failed to pay rent, the respondent stated that her relationship with the applicant had broken down. In addition to his action to recover possession of the property she had been frustrated at delays in carrying out various repairs to the property. She had decided to stop paying rent. The rent payments had not been retained by her but had been spent as part of her overall monthly outgoings on various items. She explained that she hoped to

move into a local authority tenancy which may have a lower level of rent than the present property. She advised that she would recommence full payments of rent pending that.

9. The respondents advised that she lived in the property with her 3 young children.
10. Ms Campbell-Hynd opposed a time to pay direction at the increased level of £250 per month.

Findings in fact

11. Parties entered in a tenancy agreement with a commencement date of 29 July 2022.
12. Monthly rent due in terms of the agreement was £610.
13. Outstanding arrears as at 29 February 2024 amounted to £4,074.03.
14. The respondents approximate monthly income is £2300.
15. The respondents approximate monthly outgoings are £1,600.

Findings in fact and law

16. The Tribunal having regard to section 1 of the Debtors (Scotland) Act 1987 and the matters set out in section 1A of that Act determined that it was reasonable in all the circumstances to make a time to pay direction requiring the respondent to repay the arrears at the rate of £150 per month.

Reasons for the decision

17. The Tribunal had regard to the application and the documents lodged by the applicant and the respondent. The Tribunal also took into account the time to pay application and oral submissions at the hearing.
18. Section 1A of the Debtors (Scotland) Act 1987 states that in determining whether it is reasonable in the circumstances to make a time to pay direction the Tribunal shall take into account the following matters:

(a) the nature of and reasons for the debt in relation to which decree is granted;

(b) any action taken by the creditor to assist the debtor in paying that debt;

(c) the debtor's financial position;

(d)the reasonableness of any proposal by the debtor to pay that debt; and
(e)the reasonableness of any refusal by the creditor of, or any objection by the creditor to, any proposal by the debtor to pay that debt

19. The Tribunal noted that debt had arisen through the respondent's decision to stop paying rent after her relationship with the applicant became difficult.
20. The Tribunal took into account that the respondent had significantly increased her offer during the course of the cmd and that the offer seemed affordable in light of her financial circumstances. The Tribunal noted that the debt would be paid off in approximately 19 months if payments were maintained at the offered rate.
21. The Tribunal noted that the respondent accepted full responsibility for the debt.
22. In all the circumstances the Tribunal determined that it was reasonable to make a time to pay direction.

Decision

The Tribunal determined to grant an order for payment in the sum of £4,078.03 together with interest at the rate of 8% per annum from the date of the order. The Tribunal made a time to pay direction that the respondent it required to repay the sum of £250 per month until the full amount has been repaid.

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.

M-C Kelly

Legal Member/Chair

16 September 2024
Date
