



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) 2016 Act

Chamber Ref: FTS/HPC/CV/24/1327

Re: Property at 34 Philips Wynd, Hamilton, ML3 8PA (“the Property”)

Parties:

Ian Jenkins, Christine Jenkins, 29 Covanburn Avenue, Hamilton, ML3 7PX (“the Applicants”)

Jamie Neilan, 34 Philips Wynd, Hamilton, ML3 8PA (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (without a hearing)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for payment in the sum of £6,017.25 with interest at the rate of 8% per annum from 18 November 2024 be granted against the Respondent, with a Time to Pay direction of £100 per month.

- 1) This was an application by the Applicants for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears. The PRT in question was by the Applicants to the Respondent commencing on 23 December 2022.
- 2) The application was dated 18 March 2024 and lodged with the Tribunal on that date. The application sought payment of arrears of £4,592.29 “with interest” (but no interest rate was specified). The rent stated in the Tenancy Agreement lodged was £795 a month.
- 3) Prior to the case management discussion (“CMD”) we received an updated rent statement and a motion for amendment from the Applicants’ solicitor, seeking to amend the sum sought to £6,071.25 being the sum said to be due as at 16 September 2024.

The Hearing

- 4) The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 10 October 2024 at 14:00. We were addressed by Joanne Hogg, solicitor, Stoddarts for the Applicants, though the Applicants were also in attendance and the first named Applicant gave submissions. We were also addressed by the Respondent who represented himself.
- 5) The Applicants' agent confirmed that the amendment motion was still insisted upon. She explained that the rent of £6,071.25 was for rent due through to 15 October 2024 and no further payments to account had been received since the date of the statement lodged.
- 6) We asked the Respondent for his position. Though he did not positively confirm that he had reviewed and checked the statement, he confirmed that he did not dispute the arrears figure and did not oppose the amendment motion. We granted the amendment motion and considered the application further.
- 7) In regard to the application, the Respondent repeatedly stressed that did not oppose the order and that he wished to make payments of the arrears. It was clear that did not propose a payment of all the arrears in a lump sum. We drew to the Respondent's attention our power to consider a Time to Pay application and he confirmed that this is what he wished to seek.
- 8) We adjourned the CMD and issued a Notice of Directions setting a timetable to allow for: a Time to Pay application to be lodged; and, if lodged, for the Applicants to confirm whether it was objected to; and for both parties to provide submissions on an appropriate interest rate and whether a hearing would be insisted upon or whether we should make a decision under Rule 18 (that is, without a hearing).
- 9) In our Note of the CMD, we made clear that the order will be granted at £6,071.25 for rent due to 15 October 2024 and that if payment were made to account which diminished that amount prior to the date of the Applicants' response to any Time to Pay application, we would expect the Applicants to confirm this.
- 10) Further to the Notice of Directions:
 - a) The Respondent lodged an application for the Time to Pay Order (that is, the wrong document as a Time to Pay Direction is appropriate pre-order). The application offered £100 per month. We had the clerk issue correspondence indicating that we would nonetheless treat the document as an appropriate application as all relevant financial information was contained.
 - b) The Applicants' agent provided an email confirming acceptance of the £100/month offer and seeking interest at 8% per annum.
 - c) The Respondent did not correspond further on the interest rate.

- d) No further correspondence was received from either party insisting on a hearing or providing details of any further payments to account said to have been made.
- 11) Neither party made a motion for expenses.

Findings in Fact

- 12) On or about 21 December 2022 the Applicants let the Property as a Private Residential Tenancy to the Respondent under a lease with commencement on 23 December 2022 (“the Tenancy”).
- 13) In terms of clause 8 of the Tenancy Agreement, the Respondent required to pay rent of £795 a month in advance.
- 14) As of 10 October 2024, the Respondent remained in arrears of rent for the period to 15 October 2024 in the amount of £6,071.25.
- 15) The Respondent does not claim to have paid any amount of the said arrears of £6,071.25 for the period to 15 October 2024.

Reasons for Decision

- 16) The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. Further, we are empowered to make a decision without a hearing under Rule 18 where the facts are not disputed by the parties and where it will not be contrary to the interests of the parties. In consideration of the facts in the case, the degree to which matters are not in dispute, and that neither party has insisted on a further hearing, we are satisfied to issue this Decision under Rule 18 without a continued CMD being set.
- 17) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. We were satisfied, on the basis of the application and supporting papers, that rent arrears of £6,071.25 were due for the period to 15 October 2024. In any case, this amount was conceded by the Respondent and no defence was made by the Respondent to any part of the application.
- 18) We were thus satisfied to make a decision at the CMD to award the sum of £6,071.25 against the Respondent. This is an order restricted to sums due under the Tenancy in regard to rent arrears up to 15 October 2024.
- 19) The only issues remaining were consideration of a Time to Pay application and interest. On interest, the Applicants sought 8% per annum and the Respondent made no submissions on interest. We were satisfied to grant interest at 8% from the date of this Decision.
- 20) In regard to Time to Pay, the Respondent lodged an application (albeit in the wrong form) offering £100 per month and this was accepted by the Applicants.

We have no further cause for enquiry and are satisfied to make a Time to Pay Direction in that amount and frequency.

Decision

- 21) In all the circumstances, we are satisfied to make the decision to grant an order against the Respondent for payment of £6,071.25 with interest at the rate of 8% per annum from today's date.

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.

J. Conn

18 November 2024

Legal Member/Chair

Date