



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) Act 2016

Chamber Ref: FTS/HPC/CV/24/1991

Re: Property at 23 Stirling Street, Airdrie, ML6 0EH (“the Property”)

Parties:

Mr Yacov Finn, C/O 23 Stirling Street, Airdrie, ML6 0EH (“the Applicant”)

Miss Cara Watson, 85 Kippen Street, Airdrie, ML6 9AZ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment be made in the sum of Eight hundred and sixty pounds and sixty eight pence (£860.68) Sterling

Background

- 1 By application to the Tribunal the Applicant sought an order for payment against the Respondent under Rule 70 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 (“the Rules”) in respect of unpaid rent in the sum of £860.68. In support of the application the Applicant provided the tenancy agreement between the parties and a rent statement.
- 2 By Notice of Acceptance of Application a Legal Member of the Tribunal with delegated powers of the Chamber President intimated that there were no grounds to reject the application. The application was therefore referred to a Case Management Discussion (“CMD”) to take place by teleconference. Notification of the CMD was given to parties in accordance with Rule 17(2) of the Rules. Said notification was served upon the Respondent by Sheriff Officers on 22 October 2024.

- 3 Both parties were invited to make written representations in advance of the CMD. No written representations were received.

The Case Management Discussion

- 4 The CMD took place on 27 November 2024. Mrs Michelle Kennedy of Independent Mortgage and Property Services represented the Applicant. The Applicant was not present. Mrs Kennedy confirmed that she was authorised to speak on his behalf. The Respondent was also in attendance. The following is a summary of the discussion and does not constitute a verbatim account of the proceedings.
- 5 The Tribunal heard submissions from Mrs Kennedy. She confirmed that the Applicant had sold the property, along with another one he owned in the same block, to the council. The block would be getting demolished in the years to come and the Applicant felt it would be more beneficial for the Respondent to secure a council tenancy. Once the Respondent was made aware that this was happening the rent ceased. The arrears had increased to £1385.68 however the Applicant had since received the deposit of £525 back from the tenancy deposit scheme. He therefore sought an order for payment in the sum of £860.68.
- 6 The Respondent explained that she had first signed a tenancy agreement with the council on 26 February 2024. However matters had been put on hold following a gas leak. The boiler was beyond repair and the council could not proceed with the sale. The Respondent had waited eight days for a new boiler to be fitted. She was left with no hot water and no heating. The Applicant had not supplied her with any sort of radiator. The Respondent had told the council that she was struggling and in rent arrears. They had told her that the sale could still go through, however the Applicant's agent had advised her that the sale could not proceed until the rent arrears were cleared. The Respondent confirmed that she had been in constant contact with the council. She had then signed another tenancy agreement with them in April 2024. The Respondent confirmed that her direct debit details had been provided to the council. She had been told that the Applicant was holding up the sale which caused her additional stress and pressure. She could have had a cheaper rent with a council tenancy at an earlier stage. The Respondent confirmed that she had not paid rent to the council for the period from 26 February 2024 up until the property was sold. She commenced rent payments to the council in April 2024.
- 7 Mrs Kennedy confirmed that the Applicant was the owner and landlord of the property up until 29 April 2024 and the rent arrears had been calculated as at that date. The Applicant was entitled to the rent for that period. The last payment made by the Respondent was in January 2024. Mrs Kennedy confirmed that there had been a problem with the boiler which was out of the Applicant's control. He had attended to this as a matter of urgency. He had not

held up the sale in any way. He wanted the sale to go through as soon as possible.

- 8 The Respondent advised that she had received an eviction notice from the Applicant on 13th April 2024. She was still in communications with the council at that time. She wasn't sure what to do. The council had told her to accept the eviction notice as she would soon become a council tenant. The Applicant had not asked her for any payment in respect of rent arrears.
- 9 The Tribunal explained that it appeared that the Applicant had been the owner and landlord of the property up until the sale went through on 29 April 2024. He would therefore be entitled to receive the rent up until the property transferred to the council. The Respondent conceded this.
- 10 The CMD concluded and the Tribunal confirmed its decision verbally, noting that a written decision would be issued to the parties in due course.

Findings in Fact

- 11 The Applicant and Respondent entered into a private residential tenancy agreement which commenced on 12 April 2023.
- 12 The rent due under Clause 8 of the tenancy agreement was £525 per calendar month payable in advance.
- 13 The tenancy between the parties terminated on 29 April 2024 following the sale of the property to the council.
- 14 The Respondent has remained in the property as a council tenant.
- 15 As at the date of termination arrears of rent in the sum of £1385.68 were outstanding.
- 16 The Applicant applied for, and received, the tenancy deposit of £525 from the tenancy deposit scheme to pay towards the rent arrears.
- 17 The outstanding sum due by the Respondent under the terms of the tenancy agreement is therefore £860.68.

Reasons for Decision

- 18 The Tribunal reached its decision taking into account the application paperwork and the verbal submissions at the Case Management Discussion. The Tribunal was satisfied that it had sufficient information to reach a decision following the Case Management Discussion and that it would not be contrary to the interests

of the parties to do so. The Applicant had provided supporting evidence to enable the Tribunal to make relevant findings in fact.

- 19 In her submissions at the CMD the Respondent had not put forward any substantive defence to the application, albeit the Tribunal accepted that she had faced difficulties during the last few months of the tenancy. She had not paid any rent to the Applicant, nor to the council, between February and April 2024, and had accepted at the CMD that rent arrears had accrued. With regard to the boiler, the Tribunal considered that this did not lend itself to a defence that the rent was not lawfully due for the period of eight days during which time a replacement was being sourced. The Applicant appeared to have dealt with the issue within a reasonable timescale and there was no suggestion that the boiler had broken due to any failure or neglect on his part. The Tribunal found it difficult to accept that he would have had any interest in delaying the sale of the property to the council.
- 20 The Tribunal therefore accepted, based on its findings in fact, that the Respondent was liable to pay the sum of £860.68 to the Applicant under the terms of the tenancy agreement. It appeared to be a matter of agreement between the parties that the tenancy had transferred to the council as of 29 April 2024 and that there were arrears outstanding as at that date which were due to be paid to the Applicant.
- 21 The Tribunal therefore made an order for payment in the sum of £860.68 against the Respondent in favour of the Applicant.

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.

27 November 2024

Legal Member/Chair

Date

