



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/23/3960

Re: Property at 31 Thornhill Road, Hamilton, ML3 9PS (“the Property”)

Parties:

James Mina, 71 Chuckethall Road, Livingston, West Lothian, EH54 8FB (“the Applicant”)

Mary Loy Reid, 27 Brankholm Gardens, Hamilton, ML3 9FH (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member)

Decision (in absence of the Respondent)

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

Background

1. This is an application by the Applicant 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 due in a PRT. The PRT in question was by the Applicant to the Respondent commencing on 29 November 2019.
2. The application was dated 8 November 2023 and lodged with the Tribunal on that day. The application sought payment of arrears of £2,111.29 said to be due as of 8 November 2023.
3. The lease for the Tenancy accompanied the application and it detailed a rental payment of £450 payable in advance on the 29th of each month. Further correspondence evidenced that the rent had increased to £485 per month by February 2022. A rent statement also accompanied the application, showing the

arrears comprising principally of unpaid rent for 29 July, 29 August, 29 September and 29 October 2023, in addition to a small balance already due as of 28 July 2023.

4. Prior to an initial case management discussion (“CMD”) of 9 July 2024 correspondence was received from JC Hughes on behalf of the Respondent, indicating that a Time to Pay application would be lodged. The CMD of 9 July 2024 did not, however, take place due to ill-health on the part of the Applicant’s agent and the Respondent’s agent stating that they had not received the CMD details. A Notice of Direction was issued, seeking unsuitable dates from the parties and confirmation whether the Applicant insisted on the claim. A continued CMD of 10 January 2025 was assigned. Prior to that, on 23 July 2024 JC Hughes emailed to intimate that no offer was being made and the Respondent was not intending to enter appearance further. The solicitor further explained that the Respondent was seeking to engage with the Applicant’s agent to clarify the arrears.

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 January 2025 at 10:00. I was addressed by Angela Franchitti, director, Property Angels. There was no appearance from the Respondent.
5. I was informed by the clerk that no contact had been received from the Respondent (or on her behalf) with the Tribunal since the email from JC Hughes of 23 July 2024. The Applicant’s agent confirmed that no contact had been made since then. Having not commenced the CMD until around 10:15, and in light of JC Hughes’ email of 23 July 2024, I was satisfied to consider the application in the Respondent’s absence. In any case, no attempt was made by the Respondent (nor anyone on her behalf) to dial in late to the CMD.
6. The Applicant’s agent provided the following submissions:
 - a. The Property had been abandoned by the Respondent and the Applicant retook possession on 7 March 2024, treating that as the last day due for rent. (I noted that a Notice to Leave on the basis of rent arrears (ground 12) had been issued providing notice that an application may be raised after 4 November 2023.)
 - b. The Respondent had made no further payments of rent prior to 7 March 2024.
 - c. There had been an increase of rent from 29 February 2024, from £485 to £499.55.
 - d. Further rent was thus due, over and above the balance sought in the application of £2,111.29 (for arrears due as of 8 November 2023) of:
 - i. £485 on 29 November 2023;
 - ii. £485 on 29 December 2023;
 - iii. £485 on 29 January 2024; and
 - iv. 8 days of rent pro-rated on the basis of a rent of £499.55 for the period of 29 February to 7 March 2024. The Applicant calculated this as £131.36.

This totalled £3,697.65.

- e. Against this, a deposit of £450 had been uplifted on 15 May 2024 and the Respondent's guarantor paid £2,667.65 on 25 June 2024, reducing the balance of rent arrears to £580, for rent to conclusion of the Tenancy.
7. I was satisfied with the arithmetic in the rent statement provided by the Applicant's agent and the further information provided at the continued CMD, and noted that there was no dispute intimated by the Respondent, who had not sought to enter appearance. No submissions were provided in regard to the reasons for regarding the termination of the Tenancy to have occurred on 7 March 2024 and not an earlier date (as no evidence was provided as to the circumstances of the "abandonment" which had led to the Applicant retaking possession on 7 March 2024) but the details of the termination were not disputed as the Respondent had not sought to enter appearance despite the application having been raised for a sum far higher than now sought.
8. No motion was made for expenses or interest.

Findings in Fact

9. On or about 29 November 2019 the Applicant let the Property as a Private Residential Tenancy to the Respondent under a lease with commencement on 29 November 2019 ("the Tenancy").
10. In terms of clause 8 of the Tenancy Agreement, the Respondent required to pay rent of £450 a month in advance on the 29th day of each month.
11. The rent due was increased first to £485 a month (applicable from the rent due in February 2022) and then £499.55 a month (applicable from the rent due in February 2024).
12. The Tenancy terminated on 7 March 2024 with the Respondent ceasing to occupy after that date.
13. Rent arrears due to 7 March 2024 amounted to £3,697.65.
14. On 5 May 2024, the Applicant received uplift of a deposit of £450 and applied same against the arrears.
15. On 25 June 2024, a guarantor in terms of the Tenancy made a payment of £2,667.65 which was applied against the arrears.
16. The total arrears remaining due, to conclusion of the Tenancy, is £580 which balance remains due as of 10 January 2025.

Reasons for Decision

17. The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. I was satisfied, on the basis of the application and supporting

papers, and the discussion at the CMD, that there were rent arrears remaining of £580 as of today, and there was no dispute made to this sum.

18. I was thus satisfied that the necessary level of evidence for these civil proceedings had been provided for an order of £580.00.
19. I shall make a decision to award the sum of £580.00 against the Respondent, being an order for rent arrears under the Tenancy to the termination date of 7 March 2024.

Decision

20. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of £580.00.

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

10 January 2025

Legal Member/Chair

Date