



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/23/2349

Re: Property at 55 Ugie Street, Peterhead, AB42 1NX (“the Property”)

Parties:

EJM Property Ltd, 3 Kirk Park, Dunbar, East Lothian, EH42 1BJ (“the Applicant”)

Ms Beata Magdalena Stefaniak, 55 Ugie Street, Peterhead, AB42 1NX (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment from the Respondent for £3410 (THREE THOUSAND FOUR HUNDRED AND TEN POUNDS)

Background

1. An application was received by the Housing and Property Chamber dated 17th July 2023. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 28th December 2024 all parties were written to with the date for the Case Management Discussion (“CMD”) of 12th February 2024 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 18th January 2024.

3. On 3rd January 2024, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent personally. This was evidenced by Certificate of Intimation dated 3rd January 2024.
4. On 24th January 2024, the Respondent emailed the Housing and Property Chamber asking that a Polish interpreter be at the CMD. This email attached photos of the Property showing possible repairs issues and text messages.

The Case Management Discussion

5. A CMD was held 12th February 2024 at 11.30am by teleconferencing. The Applicant was present and represented himself. The Respondent was present and represented herself. Ms Adrianna Sasula, interpreter, Global Connect, was present to interpret for the Respondent. She was appointed by the Housing and Property Chamber. The Applicant said that the current arrears are around £3800. There have been consistent payments since last summer with the exception of one payment which has increased the arrears by a small amount. The payments are direct payments from the Respondent. The Applicant has not raised an eviction against the Respondent. He just wants the arrears to be paid. The Respondent said that she does not dispute the arrears. She had been living in the Property with her ex partner but has been solely responsible for the tenancy since 2020. The Respondent is in full time employment. She was not able to pay her rent due to financial hardship. She is now able to pay her rent each week. She is paid weekly. The Respondent said that she would like to pay £10 per week to the arrears. It was noted by the Tribunal that the Respondent had lodged photos of the Property in disrepair. The Respondent said that she wished to let the Tribunal know about this. She was not withholding rent for this purpose and is not using it as a dispute to the reason why payment are due to the Applicant. The Applicant rebutted the claim that there was disrepair in the Property. He said that all the repairs had been completed to the Respondent's satisfaction. The Tribunal noted that as the Respondent was not raising any issues with the arrears relating to the photos that she lodged. This is not the scope for this Tribunal to take note of repairs that need to be done. If there is still outstanding work the Respondent can apply for a Repairing Standards application through the Housing and Property Chamber. The Respondent admitted the debt. A discussion followed regarding a Time To Pay Direction ("TTPD"). It was explained that this would allow the Respondent to pay up the outstanding arrears. The Applicant agreed to this in principle. The Tribunal noted that the Respondent will need to be active in applying for the TTPD. She will need to contact the Housing and Property Chamber to request that a TTPD be sent to her. If she is looking to seek money advice to help her complete the TTPD then this appointment will need to be made and attended in advance of the next CMD so that the Applicant can consider the contents of the TTPD. Once the TTPD has been completed it will need to be lodged with the Housing and Property Chamber. The Applicant and Tribunal will then be sent a copy of it. If the Applicant agrees to the amount offered then the case will be dealt with administratively and will not proceed to the next CMD date. If the amount offered is not accepted by the Applicant then the case will proceed to the CMD. The Tribunal noted that a TTPD allows for the outstanding amount to be paid

in instalments. Should those instalments stop before the debt is repaid then the Applicant is entitled to a full order for the remaining amount. The ongoing rent charge must be paid to prevent the arrears accruing further. The Tribunal also noted that should the Respondent decide not to proceed with a TTPD it will be most likely that at the next CMD the Tribunal will grant the full order as the debt has been admitted. The Respondent understood these points. She was willing to look at lodging a TTPD and will look to getting money advice. The Respondent can start making payments to the arrears immediately though there the Tribunal cannot stipulate this until an order is in place. It will reduce the arrears. The Respondent should state the date that she wishes to start the repayments on the Order. The Applicant is not bound by a TTPD being lodged. He can decide if he considers the offer reasonable or not and notify his decision to the Housing and Property Chamber. The Respondent confirmed that she does not need the papers translated to Polish as her adult daughter will translate all paperwork. The Respondent consented to being emailed by the Housing and Property Chamber. The Applicant said that he would email the Housing and Property Chamber to increase the arrears to the amount sought. The case was adjourned to a further CMD to allow for a TTPD to be lodged by the Respondent and considered by the Applicant.

6. On 28th February 2024, the Applicant emailed the Housing and Property Chamber advising that the current outstanding amount was £3810. There was no rent account attached to this email.
7. On 16th April 2024, the Applicant emailed the Housing and Property Chamber enquiring whether there had been any payment plan proposals lodged. He stated that he had no payments and wished to increase the rent.
8. On 10th May 2024, all parties were written to with the date for the Case Management Discussion ("CMD") of 12th June 2024 at 10am by teleconferencing. This was sent to both parties by email.

The continued Case Management Discussion

9. A CMD was held on 12th June 2024 at 10am by teleconferencing. Neither the Applicant nor the Respondent were present or represented. There was no explanation why the Applicant, in particular, was not present or represented. At on or around 10.10 am the Tribunal Clerk contacted the Applicant to confirm if they wished to proceed with the application. The Clerk dialled the number twice without it being answered.
10. The Tribunal dismissed the case as it was not clear that the Applicant wished to rely on the matters within the case.
11. The application was dismissed as it was not clear that the Applicant wished to rely on the case proceeding.
12. On 13th June 2024 the Applicant emailed the Housing and Property Chamber to advise that he had fallen off his bicycle that day. He had been attending to his injuries and had missed the CMD.

13. The Tribunal accepted that it was in the interests of justice to allow the recall to be granted given that the Applicant had intended to attend the CMD but had an accident on his bicycle on the day of the CMD. The Applicant had emailed the Housing and Property Chamber the next day. The recall was allowed.

The continued Case Management Discussion

14. A CMD was held on 8th January 2025 at 2pm by teleconferencing. The Applicant was present and represented himself. The Respondent was not present or represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondent did not make further representations or lodge a TTPD in advance of the CMD. A translator was present initially but dismissed at 2.10pm as the Respondent was not present.

15. The Applicant told the Tribunal that payments have not been made. The current arrears are now £3700 - £3800. The Respondent is still living in the Property. The Applicant said that there have been no payments to the arrears. He would just like the arrears addressed.

16. The Tribunal noted that it cannot increase the amount of the sum sought as there had not been sufficient notice to the Tribunal in advance of the CMD. This is so that the Respondent can have notice of any increase. The Applicant accepted that point. The Tribunal noted that he is not prevented from lodging another application for the remaining amount due.

17. The Tribunal noted that the Respondent did not dispute the arrears. The Tribunal continued the CMD to allow the Respondent to consider lodging a TTPD. The Respondent was not compelled to lodge a TTPD. The Tribunal granted an order for the amount of £3410 in favour of the Applicant.

Findings and reason for decision

18. A Private Rented Tenancy Agreement commenced 1st June 2018. The Respondent remains a tenant in the Property.

19. The Respondent persistently failed to pay her rent charge of £125 per week.

20. The Respondent admitted the arrears were due and had arisen due to financial hardship.

21. The Tribunal was satisfied that the amount outstanding of £3410 was due to the Applicant.

Decision

22. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £3140 from the Respondent.

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.

Gabrielle Miller

8th January 2025

Legal Member/Chair

Date