



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/23/4317

Re: Property at 3 2/1 Antigua Street, Greenock, PA15 4QT (“the Property”)

Parties:

PTW Ltd, 10 Binniehill Road, Cumbernauld, Glasgow, North Lanarkshire, G68 9AJ (“the Applicant”)

Johnathan Smith, 3 2/1 Antigua Street, Greenock, PA15 4QT (“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 20 August 2022.
2. The application was dated 1 December 2023 and lodged with the Tribunal around that date. The application sought payment of arrears of £1,791.18 said to be due as of 20 November 2023 (though a rent statement accompanying the application showed payments credited on 1 December 2023 which reduced the arrears to that date).

3. The lease for the Tenancy accompanied the application and it detailed a rental payment of £375 payable in advance on the 20th of each month. The application went through a number of rounds of correspondence prior to being accepted on 13 May 2024. Within that correspondence, the application was amended on 15 February 2024 to seek a reduced sum of £1,755.87 said (in a further rent statement dated 14 February 2024) to be the arrears due as of 2 February 2024. The balance arose from shortfalls in rent from Summer 2023 which followed a period where a number of payments had been wholly missed.
4. An initial case management discussion (“CMD”) on 21 August 2024 was continued due to non-appearance of either party. Following this, the Applicant’s agent lodged a further rent statement dated 3 September 2024 which showed arrears to that date of £1,851.11 but also showed the balance as of 2 February 2024 as £1,461.87. This was due to a further credit of £294 having been applied on 2 February 2024 (which credit was missing from the statement of 14 February 2024, but which represented the reduction in balance from the sum sought of £1,755.87 to £1,461.87). The rent statement of 3 September 2024 showed that rent was now being applied at the rate of £400/m but no documentation vouching this increase was lodged.

The Hearing

5. The matter called for a continued CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 22 January 2025 at 10:00. I was addressed by Annette Weston, Lettings Manager, Corbett & Shields. There was no appearance from the Respondent.
6. I was informed by the clerk that no contact had been received from the Respondent (or on his behalf). The Applicant’s agent confirmed that little contact had been received in recent months from the Respondent, though he had engaged on the issue of arrears at an earlier point. She confirmed that the Respondent remained in occupation and a separate application for eviction was still proceeding through the Tribunal (but was it was not before me at the CMD). Having not commenced the CMD until around 10:10, and having seen evidence of valid intimation of the original CMD of 21 August 2024 (at which the Respondent had not appeared), 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 his behalf) to dial in late to the CMD.
7. The Applicant’s agent provided submissions on the sum sought. She confirmed that the Respondent now received two regular monthly benefit payments from Universal Credit: £375 against the rent and £39.55 against arrears. The balance as of 22 January 2025 was £1,824.49 which was for rent through to 19 February 2025. In regard to the discrepancy between the two rent statements of 15 February 2024 and 3 September 2024 as to what was the true balance as of 2 February 2024, the Applicant’s agent said that she believed the payment of £294 was likely paid later than 2 February 2024 but then retrospectively allocated to that date.

8. I pressed the Applicant's agent whether it was appropriate to regard: the balance on 2 February 2024 as £1,461.87; and the figure of £1,755.87 as no longer the closing balance for any date. She accepted that reading. Further she confirmed that the balance of £1,461.87 as of 2 February 2024 was for rent through to 19 February 2024. (On 20 February 2024, the rent due of £375 on that date was applied, and the balance rose again above the sum sought, returning to a balance of above the sum sought each 20th of the month thereafter.)
9. I sought a confirmation from the Applicant's agent as to whether she sought a continuation of the application to amend to seek the higher sum due as of 22 January 2025 (which would also have required lodging evidence for the rent increase), or seek an order at this CMD for £1,461.87 for arrears to 19 February 2024 only (for which no further evidence would be required). She sought the immediate order for the lower figure to 19 February 2024, reserving the Applicant's position to advance a further application for any additional arrears arising from 20 February 2024.
10. No motion was made for expenses or interest.

Findings in Fact

11. On or about 20 August 2022 the Applicant let the Property as a Private Residential Tenancy to the Respondent under a lease with commencement on 20 August 2022 ("the Tenancy").
12. In terms of clause 8 of the Tenancy Agreement, the Respondent required to pay rent of £375 a month in advance on the 20th day of each month.
13. As of 20 January 2024, the passing rent was unchanged at £375 a month.
14. Rent arrears due to 19 February 2024 amounted to £1,461.87.
15. The total arrears remaining due to 19 February 2024 remains £1,461.87.

Reasons for Decision

16. 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 of £1,461.87 for the period to 19 February 2024 remaining due as of today. 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 at either CMD. I was satisfied that the payments for the period from 20 February 2024 did not (at this time) reduce the balance of £1,461.87 to 19 February 2024 and it was appropriate to make an order in this amount, being a sum lower than that intimated to the Respondent in the application. I was thus satisfied that the necessary level of evidence for these civil proceedings had been provided for an order of £1,461.87.

17. I shall make a decision to award the sum of £1,461.87 against the Respondent, being an order for rent arrears under the Tenancy to 19 February 2024, with the Applicant reserving its position on whether to advance additional applications for further orders.

Decision

18. In all the circumstances, I was satisfied to make the decision to grant an order against the Respondent for payment of £1,461.87.

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.

Joel Conn

22 January 2025

Legal Member/Chair

Date