



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/24/0661

Re: Property at 6C St John Street, Stirling, FK8 1EB (“the Property”)

Parties:

Dr Robert Deuchar, 4 Town House Street, Denny, FK6 5DX (“the Applicant”)

Ms Evonne Stirling, 6C St John Street, Stirling, FK8 1EB (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an order for payment in the sum of EIGHTEEN THOUSAND SIX HUNDRED POUNDS (£18,600)

Background

1. By application dated 8 February 2024 the applicant seeks an order for payment of outstanding rent arrears.
2. The application was conjoined with application reference FTS/HPC/EV/24/0660 seeking an order for eviction, relying on ground 12 (rent arrears for three or more consecutive months), ground 12A (substantial rent arrears) and ground 14 (anti-social behaviour) in Schedule 3 of the Private Housing (Tenancies) (Scotland) Act 2016.
3. The applicant lodged the following documents with the application:
 - Copy tenancy agreement

- Letter to the respondent with Notice to Leave and Guidance dated 18 December 2023 with proof of delivery
 - Rent statement for duration of tenancy
 - Pre action letters to the respondent dated 18 December 2023, 5 February and 9 May 2024.
4. A teleconference case management discussion (“cmd”) was assigned for 7 October 2024 in respect of both conjoined applications.
 5. The applicant was represented by Ms Berrill, solicitor from Hill and Robb. The respondent was not present or represented. The Tribunal was satisfied that the respondent had received proper notice of the cmd and proceeded with the cmd in their absence in terms of rule 29
 6. Ms Berrill sought an order for payment. Prior to the cmd an updated rent account had been submitted which showed that as at September 2024 the rent arrears amounted to £17,000. Whilst the rent account had been intimated to the respondent a formal application to amend the amount sought in terms of rule 14A had not been made and intimated.
 7. The application was adjourned to allow the applicant to seek to amend the amount sought in terms of rule 14A in advance of the adjourned cmd. It was noted that the amount of arrears may increase further in advance of that date.
 8. An order for eviction in respect of the eviction application was granted at the cmd which terminated the tenancy agreement on 7 November 2024.

CMD – TELECONFERENCE – 29 JANUARY 2025

9. The applicant was again represented by Ms Berrill. The respondent was not present or represented. The Tribunal noted that the respondent had been notified of the cmd by recorded delivery letter sent to the property address. Ms Berrill advised that no eviction had as yet been carried out. She advised that the respondent’s personal possession remained in the property and whilst it was not clear that she was living in the property full time, she had not provided any forwarding address and there were signs that the property was occupied to some extent. The Tribunal determined that proper notice of the cmd had been given in terms of rule 24.1 and proceeded with the cmd in the absence of the respondent in terms of rule 29.

10. The applicant's representative had intimated a request to increase the sum sought to £19,400 in terms of rule 14A on 8 January 2025. The request to amend was accompanied by an updated rent account and proof of intimation on the respondent by way of email to her known email address.
11. At the cmd Ms Berrill sought to restrict the amendment to £18,600 which was the amount of arrears outstanding as at the date the tenancy agreement terminated on 7 November 2024. No payments had been made towards the rent account since the previous cmd.

Findings in fact and law

12. Parties entered into a tenancy agreement with a commencement date of 23 November 2022.
13. Monthly rent due in terms of the agreement was £800.
14. Arrears as at 7 November 2024 amounted to £18,600.
15. The respondent has not made any payments towards the rent or arrears since the tenancy commenced.

Reasons for the decision

16. Rule 18 states:

Power to determine the proceedings without a hearing

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

17. The Tribunal was satisfied that having regard to the undisputed facts of the case it was able to make a determination and that it was not contrary to parties' interest to do so at the cmd without the need for a further hearing.
18. The Tribunal took into account that the respondent had not lodged any defence to the application or disputed the sum sought in any way.
19. The Tribunal had no reason to doubt the information provided by the applicant's agents in relation to the level of outstanding arrears. The Tribunal was satisfied that arrears in the amount of £18,600 were lawfully due as at the date of the cmd.

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.

Mary-Claire Kelly

Legal Member/Chair

29 January 2025_____

Date