



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Procedure Rules”)

Chamber Ref: FTS/HPC/CV/24/3864

Re: Property at Flat 0/2, 60 Cleveden Drive, Glasgow, G12 0NX (“the Property”)

Parties:

Mr Allan Pender, 11 Burnfoot Road, Fairlie, North Ayrshire, KA29 0DU (“the Applicant”)

Miss Effrosyni Faratzi, Flat 0/2, 60 Cleveden Drive, Glasgow, G12 0NX (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent in the sum of £8,750 should be made in favour of the Applicant.

Background

1. By application received on 21 August 2024, the Applicant sought a payment order against the Respondent in respect of rent arrears. Supporting documentation was submitted with the application, including a copy of the tenancy agreement and a rent statement. During the initial process, an updated rent statement was submitted by the Applicant on 7 November 2024, showing an increased balance now owing of £6,250.
2. The application was subsequently accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 10 December 2024. As there was already an ongoing application for an eviction

order between the parties in respect of the same Property, and a date already scheduled for an Evidential Hearing (which had been notified to both parties by email on 20 December 2024, the two applications were conjoined and the Case Management Discussion (“CMD”) in respect of this application was scheduled to take place in-person, on the same date and time as the Evidential Hearing in respect of the eviction application, 6 February 2025 at 10am.

3. Notification of this application was made to the Respondent and the date, time and arrangements for the CMD were intimated to both parties, advising of the date by which any written representations should be lodged by the Respondent, namely 10 January 2025. Said notification was served on the Respondent by way of Sheriff Officer service (affixing to front door of the Property as no letterbox) on 23 December 2024.
4. By email, on 21 January 2025, the Applicant submitted an application to amend the Application in terms of Rule 14A of the Regulations to increase the sum sought to £8,750, advising that a further two months’ rent, amounting to £2,500 was now owing in addition to the £6,250 owing in November 2024. This documentation was circulated by the Tribunal Administration to the Respondent on 30 January 2025 by way of email, together with documentation also lodged by the Applicant in relation to the conjoined eviction application.
5. No written representations were lodged by the Respondent prior to the CMD.

Case Management Discussion

1. A Case Management Discussion (“CMD”) took place in-person at Glasgow Tribunals Centre on 6 February 2025 at 10am. Only the Applicant, Mr Allan Pender, was present at 10am and, accordingly, the commencement of the CMD was delayed for 5 minutes to allow an opportunity for the Respondent to attend late but she did not do so. The Tribunal Clerk also checked, prior to commencement, that there had been no communications received from the Respondent.
2. After introductions and introductory remarks by the Legal Member, Mr Pender was asked to address the Tribunal on the payment application. He explained that the rent in respect of the tenancy was £1,250, with the first two-months’ rent payable up-front. Before the tenancy commenced, he met the Respondent and her mother at the Property when they paid him the sum of £2,500 in cash. This covered the rent due for the two months from 6 July 2023. He did not take any deposit in relation to the tenancy, due to the guarantor company operating a ‘deposit-less scheme’. The next payment of rent was therefore due on 6 September 2023. When this was not paid, Mr Pender realised he may have a problem and decided to employ a letting agent to manage the Property for him and deal with the Respondent. The letting agent contacted the Respondent regarding the outstanding September rent but this did not go well. The Respondent claimed that there were insects in the Property and that this had triggered an asthma attack. The letting agent subsequently withdrew from their management of the tenancy as they found the Respondent very difficult to deal

with. Mr Pender also found the Respondent very difficult to deal with. He said that when he raised the issue of rent verbally, the Respondent would respond with all sorts of excuses for non-payment and make various allegations against him. She would send him abusive emails. The Respondent's mother, who lives in Greece, would also email him on behalf of the Respondent. Mr Pender said that he would try and respond to explain his side of things but communication with the Respondent became more and more difficult and stressful for him.

3. The Respondent complained about the ventilation system in the bathroom not working properly and that this was causing mould which, in turn, was triggering her asthma and causing other health issues. The Respondent then claimed that a neighbour had cut the ventilation pipe from the bathroom. Mr Pender explained that, although the ventilation from the bathroom was a bit weak, there had been no real problems with it before this tenancy. The ventilation pipe was subsequently found to have been cut but Mr Pender does not know exactly when this has happened as it was June 2024 before he was able to get access to the Property to inspect. This was due to the Respondent's repeated refusal to allow access. He had eventually had to raise a Right of Entry case through the Tribunal, which resulted in the Respondent allowing access in June 2024, a week before the formal entry date which had been arranged through the Tribunal. On inspection, the pipe was found to have been cut. By way of background, Mr Pender explained that his neighbour had discovered, on carrying out renovations to his own property that the vent pipe leading from the Property traversed the neighbour's property underneath a ceiling which had been removed during the renovations. There had been a dispute as to whether or not the pipe required to be moved. The neighbour has not admitted cutting the pipe. Nonetheless, Mr Pender stated that he accepted that repair was needed and had instructed an engineer to carry out the necessary work. However, the Respondent has subsequently refused to allow any further access so this issue is outstanding and Mr Pender is unaware of the current condition of the Property, which is a concern to him. Mr Pender thinks the Respondent is refusing to allow access for repair so that she can justify not paying rent.
4. Mr Pender also explained about the involvement of the guarantor company, Housing Hand Ltd, in relation to the rent arrears. He confirmed that they guaranteed the first year's rent. He contacted them when the Respondent failed to make any rent payments after the first two months' rent. They were very helpful and ultimately paid the next ten months' rent instead of the Respondent. This covered the period until July 2024. Mr Pender has not received any further rent payments since then and the rent arrears currently amount to £8,750, with a further month's rent due from today.
5. Mr Pender does not know what the Respondent's current income situation is. He thinks she is around 34 years old as her mother said she was 32 when they first met before the tenancy started. She was a student at Glasgow University and previously had part-time work to do with music. He was aware that she was previously having some sort of difficulties with her studies. He does not know whether she is still a student or if she still has any work here. He said that the Respondent was back and forward to Greece all the time, so must have money

to pay for all the flights. She also drives a newish car. Mr Pender said that the Respondent was always full of promises to pay but never entered into a payment plan with him. He said that he used to feel a bit sorry for her as she often seemed a bit down and seemed to have some problems. However, he sometimes wonders if she ever intended to pay him rent once she was living in the Property.

Findings in Fact

1. The Applicant is the owner and the landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 6 July 2023.
3. The rent due in respect of the tenancy is £1,250 per calendar month.
4. The Respondent paid the first two months' rent prior to commencement of the tenancy, amounting to £2,500.
5. The Respondent has made no further payments herself in respect of rent since that time.
6. Housing Hand Limited were a Guarantor in terms of the tenancy in respect of rent, which they guaranteed for a period of one year from the commencement of the tenancy.
7. When the Respondent failed to make further rent payments, the Applicant contacted Housing Hand Limited.
8. Housing Hand Limited subsequently made payment of rent to the Applicant, in terms of the Guarantee, to cover the rent due for the months of September 2023 to June 2024 (10 months).
9. No rent has been paid since the rent due for the month commencing 6 July 2024.
10. When this application was lodged with the Tribunal, the rent arrears owing amounted to £2,500 which had risen to £6,250 by 7 November 2024.
11. Rent arrears have now risen to £8,750, with a further months' rent becoming due today, 6 February 2025.
12. The Respondent remains in occupation of the Property and therefore remains liable for ongoing rental payments due until she vacates.
13. The Applicant's former letting agent initially contacted the Respondent about her non-payment of rent in September 2023.

14. Subsequently, the Applicant has raised the issue of rent arrears with the Respondent who has stated various reasons for non-payment, including that there was an issue with the ventilation in the bathroom.
15. The Applicant sought entry to the Property several times to investigate the ventilation problem, which was refused by the Respondent.
16. The Applicant eventually made a Right of Entry application to the Tribunal, resulting in the Respondent allowing access to the Property for inspection in or around June 2024.
17. An issue with the ventilation was identified on inspection but the Respondent has subsequently refused further access to the Applicant/his tradesman to allow remedial work to be carried out.
18. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this Application and did not attend the CMD.
19. The sum of £8,750 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy in terms of this Application and has not been paid by the Respondent.

Reasons for Decision

1. The Tribunal considered all of the background papers, including the application and supporting documentation and the oral submissions made by the Applicant at the CMD. The Tribunal noted that no representations had been made by the Respondent in respect of this application, although she had mentioned the issue with the bathroom ventilation in the Property in her written representations in support of her postponement request submitted prior to the CMD on 3 September 2024 in respect of the conjoined eviction application. The Respondent did not attend the CMD in respect of this application, nor the Evidential Hearing in respect of the eviction application, both taking place together, having been properly, timeously and separately notified of both, by Sheriff Officer service and email respectively. The Tribunal considered that there was nothing to contradict the submissions from the Applicant and therefore no requirement to continue this application to an Evidential Hearing. The Tribunal was satisfied that, in the circumstances, a payment order in terms of this application could properly be made at the CMD.
2. The Tribunal was satisfied from the information before it that the application on behalf of the Applicant to increase the sum sought to £8,750 had been made timeously in terms of Rule 14A of the Regulations and had been notified to the Respondent by the Tribunal in sufficient time to allow her to make representations if she wished to do so. Accordingly, the Tribunal permitted said amendment to be made.

3. The Tribunal was satisfied from the supporting documentation, particularly the tenancy agreement and updated Rent Statement, together with the oral submissions of the Applicant at the CMD that the sum of £8,750 in unpaid rent is due and resting owing by the Respondent in terms of this application and that an order for payment in that sum should accordingly be made. In considering this application, the Tribunal had regard to the issue concerning the ventilation in the bathroom which had been raised by the Respondent in the context of the conjoined eviction application, as outstanding repairs in respect of a property can, in some cases, be a relevant defence or partial-defence to an application for payment of rent arrears by a landlord against their tenant. However, in this case, the Tribunal was satisfied by the Applicant's evidence in this regard and accepted his explanation in respect of the ventilation issue. The Tribunal therefore determined that the Respondent was liable for all of the rent arrears claimed.

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.

Date: 6th February 2025

Legal Member: N Weir

Nicola Weir