



Decision 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/24/3851

Re: Property at 3A Petendreia Court, Bonnyrigg, Bonnyrigg, Midlothian, EH19 2AF (“the Property”)

Parties:

LAR Housing Trust, Buchan House, Enterprise Way, Dunfermline, KY11 8PL (“the Applicant”)

Ms Gemma Middlemass, 19 Foster Place, Penicuik, EH26 0FN (“the Respondent”)

Tribunal Members:

Sarah O'Neill (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £473.31 should be granted in favour of the Applicant. The tribunal made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, requiring the Respondent to pay the sum of £150 per month until the full amount has been paid.

Background

1. An application was received from the Applicant on 21 August 2024 for a payment order brought in terms of rule 111 (Application for civil proceedings in relation to a private residential tenancy) of Schedule 1 to the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 (“the 2017 rules”).

2. The Applicant sought a payment order for the sum of £473.31, being the sum outstanding in rent arrears as at the date of the application.
3. Attached to the application form were:
 - Copy private residential tenancy agreement between the parties, which commenced on 28 May 2019.
 - Rent increase notice from the Applicant to the Respondent dated 24 January 2020.
 - Rent statement showing the rent arrears due by the Applicant to be £513.31 as at 28 February 2022.
 - Various correspondence between the parties regarding the Respondent's rent arrears and payment plans agreed between the parties dated between 23 June 2020 and 20 August 2024.
4. The application was accepted for determination on 16 September 2024. A case management discussion (CMD) was arranged for 25 March 2025.
5. An application for a time to pay direction under the Debtors (Scotland) Act 1987 was received from the Respondent on 19 February 2025. In the application, the Respondent stated that she admitted the Applicant's claim against her. She requested a time to pay direction in relation to the debt at a rate of £150 per month until the outstanding arrears were cleared.
6. A response to the time to pay direction application was received from the Applicant on 26 February 2025. In the response, the Applicant stated that it was happy to accept the Respondent's proposal for repayment.
7. The Tribunal therefore considered that it was in a position to make a decision on the application without the need for a CMD.

Findings in Fact

8. The Tribunal made the following findings in fact:
 - There was a private residential tenancy in place between the parties. The tenancy began on 28 May 2019 and came to an end on 7 February 2022, when the Respondent vacated the property.
 - Under the tenancy agreement, the Respondent was initially liable to pay rent of £605 per calendar month, rising to £614 per month from 1 May 2020.
 - As at the end of the tenancy, the outstanding sum owed in rent arrears by the Respondent to the Applicant was £513.31.

- The Respondent entered into a payment plan with the Applicant under which she agreed to pay £50 per month towards the outstanding arrears from 3 November 2023. The Respondent did not make any payments under the agreed payment plan.
- The parties later entered into a repayment plan under which the Respondent agreed to repay £20 per month towards the arrears.
- The Respondent made two payments of £20 each towards the arrears in May and July 2024. No further payments were made prior to the application being made by the Applicant.
- As at the date of the application, the Respondent owed a total of £471.31 in outstanding rent arrears to the Applicant.

Reasons for Decision

9. Having considered all of the evidence before it, including the Respondent's admission that she owes the sum claimed, the Tribunal decided that a payment order for the sum of £471.31 should be granted.
10. The Tribunal then considered whether to grant the order subject to a time to pay direction, as requested by the Respondent. Section 1 of the Debtors (Scotland) Act 1987 states that the Tribunal shall, if satisfied that it is reasonable in all the circumstances to do so, and having regard to the matters mentioned in subsection 1A, direct that the sum claimed shall be paid by instalments or as a lump sum.
11. The matters mentioned in subsection 1A are:
 - a) The nature of and reasons for the debt in relation to which the order is granted;
 - b) Any action taken by the creditor to assist the debtor in paying that debt;
 - c) The debtor's financial position;
 - d) The reasonableness of any proposal by the debtor to pay that debt; and
 - e) The reasonableness of any refusal by the creditor of, or any objection by the creditor to, any proposal by the debtor to pay that debt.
12. The Tribunal considered whether it was reasonable in all the circumstances to grant a time to pay direction. It noted that the Applicant was willing to accept the Respondent's proposal. It also noted that the sum owed by the Respondent was relatively modest.
13. The Tribunal noted that it would take the Respondent no more than four months years to repay the outstanding debt at the proposed rate of £150 per month. In her time to pay application, the Respondent explained that she had been experiencing difficult family circumstances which had led to her failure to maintain the agreed payment plan. She is currently employed, is a single parent

and has some income from benefits. While she has some other debts, on the basis of the details provided in her form she has sufficient disposable income each month to make the payments offered in terms of her application.

14. Having considered all of the evidence before it, the Tribunal is satisfied that it is reasonable in all the circumstances to grant the order subject to a time to pay direction as sought by the Respondent.

Decision

15. The tribunal grants an order for payment by the Respondent to the Applicant for the sum of £471.31. The order is granted subject to a time to pay direction under which the Respondent is required to pay the sum of £150 per month until the full amount has been paid.

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.

Sarah O'Neill

10 March 2025

Legal Member/Chair

Date