



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, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/24/4922

Re: Property at 47 Dollar Crescent, Kirkcaldy, Fife, KY2 6NU (“the Property”)

Parties:

Mrs Lynn McLean, Mr Alexander McLean, 1 Begg Cottages, Kirkcaldy, Fife, KY2 6QP (“the Applicant”)

Ms Janette Hamilton, 47 Dollar Crescent, Kirkcaldy, Fife, KY2 6NU (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Gordon Laurie (Ordinary Member)

Decision

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 £2,860.26 should be made in favour of the Applicant.

Background

1. By application received on 24 October 2024, the Applicant applied to the Tribunal for an order for payment of rent arrears in the sum of £2,790.16 against the Respondent. Supporting documentation was submitted in respect of the application, including a copy of the tenancy agreement and a rent statement. An application for eviction was submitted at the same. The applications were conjoined and proceeded through the Tribunal process together.
2. Following initial procedure and submission of further documentation by the Applicant, a Legal Member of the Tribunal with delegated powers from the

Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 22 November 2024.

3. Notification of the application and details of the Case Management Discussion ("CMD") fixed for 16 May 2025 was served on the Respondent by way of Sheriff Officer. In terms of said notification, the Respondent was invited to lodge written representations.
4. On 29 March 2025, the Respondent lodged detailed written representations which applied to both applications, explaining the reasons for the rent arrears, her personal and financial circumstances, details of some medical and health issues, her wish to move into social housing which would be more affordable and suitable to her needs, that she has applied to the local authority for housing but has been told that her application will not progress until an eviction order is granted. The Respondent submitted a time to pay application in respect of this application and confirmed that she was not contesting the eviction.
5. On 7 April 2025, the Applicant's agent lodged further written representations, confirming that the time to pay offer was acceptable to the Applicant and also lodging an updated rent statement and a request to amend the sum claimed to £2,860.26.
6. The Tribunal contacted the Respondent on 11 April 2025 to ascertain whether she agreed to the increased rent arrears now sought, to which she responded on 11 April 2025 to confirm her agreement.

Case Management Discussion

7. The CMD took place by telephone conference call on 16 May 2025 at 10am, attended by the Applicant's agent, Ms Gemma Forbes, Solicitor of Innes Johnston LLP and by the Respondent, Ms Janette Hamilton.
8. Following introductions and introductory remarks by the Legal Member, there was discussion regarding the payment action. It was confirmed by Ms Forbes that the Applicant was still seeking an order for the sum of £2,860.26 in terms of the updated rent statement lodged and by Ms Hamilton that this was accepted and that she was still offering to pay £75 per calendar month, but only once she had vacated the Property as she cannot afford to pay until then, in view of the ongoing rent. Ms Forbes confirmed that this was still acceptable to the Applicant and confirmed that an order allowing payment at that rate was sought.
9. Ms Hamilton reiterated that she has always had a good relationship with the Applicant and that she was aware they were charging her a fair rent. She apologised for the rent arrears situation which had originally occurred due to a series of unfortunate events. However, given her limited income, she accepts that she simply cannot afford the rent and is looking for a property more suitable to her in terms of her medical needs, as well as being affordable to her.

10. The Tribunal Members adjourned to discuss the applications and, on re-convening, advised parties that the payment order sought would be granted and the Respondent's time to pay application granted, given the Applicant's agreement to this. Given that the eviction order was also being granted, subject to the earliest date for eviction of 15 July 2025, there was some further discussion, and it was agreed that the first date of payment should be made by the Respondent by 31 July 2025 which she confirmed would fit in with her benefits payments. The Legal Member explained to the Respondent that it was important that she adhered to the instalment payments because if she defaulted, the facility to pay by instalments is removed. Accordingly, she was informed that, if she runs into any difficulties with payments or with her benefits, etc, she should contact the Applicant regarding the matter. Parties were thanked for their attendance and participation in the CMD.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the tenant of the Property by virtue of a Private Residential Tenancy which commenced on 5 August 2023 but had occupied the Property since 2010 under a previous tenancy.
3. The rent in terms of the tenancy was £520 per calendar month.
4. There was a background of rent arrears, with there being a shortfall between the payments made and the monthly rent.
5. The Respondent was reliant on state benefits and it appeared that the benefits received varied in amount from time to time.
6. The Respondent had been called upon to make payment of the rent arrears or enter into and maintain a satisfactory payment arrangement but had failed to do so.
7. Rent arrears amounted to £2,790.16 when the application was lodged and have now increased to £2,860.26.
8. The Respondent admits the arrears of £2,860.26.
9. The Respondent had been experiencing financial difficulties for some time due to various issues and accepted she was not able to afford the current rent.
10. The Respondent had made a time to pay application offering payments at the rate of £75 per calendar month which the Applicant accepted.
11. Parties agreed that the first payment of £75 should be made by 31 July 2025 at the latest.

12. The amount due and owing to the Applicant in respect of rent arrears is £2,860.26.

Reasons for Decision

1. The Tribunal gave careful consideration to all of the background papers including the application and supporting documentation lodged with the application and subsequently, the written representations lodged by the Respondent, including a time to pay application, the Applicant's response to this, and the oral information provided at the CMD on behalf of the Applicant and by the Respondent.
2. The rent arrears were admitted by the Respondent and her time to pay application had been accepted by the Applicant and the final terms of same agreed between parties at the CMD.
3. The Tribunal determined that, in the circumstances, an order in the sum of owing of £2,860.26 in respect of rent arrears, payable at the rate of £75 per calendar month could properly be made at the CMD today.

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.

Nicola Weir

Legal Member

16 May 2025
Date