



Decision on Case Management Discussion of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to an Assured Tenancy under Rule 70 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/20/0657

Re: 36 Scotts Street, Annan, DG12 6JG ("the Property")

Parties:

Brian Jardine and Mrs Annette Jardine, Omond, Stapleton Road, Annan, DG12 6LE ("the Applicant")

Thomas Seaby, 6 Hollinlea, Annan, DG12 6QU ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order for payment would be issued requiring the Respondents to pay the Applicant the sum of £1207.56 by monthly instalments of £100 per month, the first payment to be made within one month of the date he receives intimation of the Payment Order by the Tribunal.

Background

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent in the sum of £1207.56 being the sum outstanding as at 6th July 2018.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicants were:

2.1 A copy of the Tenancy Agreement.

2.2 A copy of their bank statement.

3. Application for a Time to Pay Direction.

The Respondent lodged an Application for a Time to Pay Direction dated 13th July 2020. The Application confirmed that the Applicant admitted the claim and applied for and order for payment to be made requiring the sum of 1207.56 to be paid by monthly payments of £100. The Respondents sent the Tribunal a Response to the Time to Pay Direction application dated 29th July 2020 and indicated that they were content with the Time to Pay proposal.

4. Requirements of Section 70 of the Procedure Rules.

4.1 In connection with the requirements of section 70 that the application correctly detailed the requirements of section 70(i), (ii) and (iii) of the Procedure Rules namely:-
(i) the name and address of the Applicants.
(ii) the name and address of the Respondents.
(iii) the reason for making the application.

4.2 The application had been accompanied by the documents specified in **Section 70(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statement of rent arrears.

5. Decision.

5.1 Findings in Fact.

5.1.1 The Applicants are the Landlords of 36 Scotts Street, Annan, DG12 6JG ('the Property').

5.1.2 The Respondent was Tenant of the Property in terms of the Short Assured Tenancy between the parties dated 1st November 2016.

5.1.3 The term of the Tenancy was from 1st November 2016 to 1st May 2017 and month to month thereafter.

5.1.4 The Tenant vacated the Property on 31st March 2018.

5.1.5 The rent due in terms of the tenancy was £463 per month.

5.1.6 The arrears due by the Respondent amount to £1207.56

5.2 Time to Pay Direction

Section 1 of The Debtors (Scotland) Act 1987 (as amended by the First- tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019) provides that the Tribunal will make a Time to Pay Direction if satisfied that it is reasonable in the circumstances to do so having regard in particular to:-

1. The nature and reasons for the debt in relation to which the order is sought.
2. Any action taken by the creditor to assist the debtor in paying the debt.

3. The debtor's financial position.
4. The reasonableness of any proposal by the debtor to pay that debt.
5. The reasonableness of any refusal or objection by the creditor to any proposal or offer by the debtor to pay the debt.

Considering that the Respondent has accepted the claim of £1207.56 and the Applicants have accepted the request made by the Respondent to pay this sum at £100 per month and the Tribunal consider this to be reasonable, the Tribunal determined that the outstanding rent due by the Respondent amounted to £1207.56 and accordingly they issued an Order for Payment in this sum to be paid by monthly payments of £100, the first payment to be made within one month of the date the Respondent receives intimation of the Payment Order by the Tribunal.

6. 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.

Jacqui Taylor
..... **Legal Member**

13th August 2020