



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/21/1153

**Re: Property at 41 Niddrie Marischal Green, Midlothian, Edinburgh, EH16 4EN
("the Property")**

Parties:

**Mr William McAra, Mrs Sheila Fraser, 6 Beveridge Close, Mayfield, Dalkeith,
EH22 5TP ("the Applicant")**

**Miss Staci Kelly, 41 Niddrie Marischal Green, Midlothian, Edinburgh, EH16 4EN
("the Respondent")**

Tribunal Members:

Melanie Barbour (Legal Member) and Elaine Munroe (Ordinary Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the
Tribunal") determined that it would grant an order for payment of TWELVE
THOUSAND AND SIXTY POUNDS AND 3 PENCE (£12,060.03) STERLING**

Background

1. An application was made to the First Tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First Tier Tribunal for Scotland (Housing and Property Chamber) (Procedure) Regulations 2017 ("the 2017 Rules") seeking an order for payment in relation to unpaid rent.
2. The application contained:-

- a copy of the tenancy agreement
 - rent statement
 - aT5
 - section 33 notice
 - notice to quit
 - sheriff officers' certificate of service
 - section 11 notice
 - email to local authority attaching section 11 notice
3. Today's case management discussion was held by telephone conference call. At the case management discussion on 5 July 2021, the Applicant's agent, Ms Morrison from T C Young appeared. The Respondent was represented by Ms McLeod from CHAI.
4. The tribunal had before it copies of sheriff officers' certificate of service on the respondent.
5. The applicant's representative had lodged paperwork on 16 June 2021 to amend the sum sought to £12,060.03. The respondent's representative confirmed that this further paperwork had been received by the respondent.

Discussion

6. The Applicant advised that the rent arrears were still outstanding. She advised that they had increased since the application was made. She moved to amend the sum sued. The tribunal allowed this amendment to the sum sued.
7. She referred to the tenancy agreement between the parties. She advised that the arrears had arisen since November 2019. The rent was £1175 per month. The housing benefit payments which were received from November 2019 were in the region of £591.91 per month. The respondent was making some additional payments of £30 per week. However, these payments left a shortfall,

and the arrears were increasing every month. She advised that a discretionary housing benefit payment was supposed to have been applied for the balance of the rent, however the applicant had investigated this and there was no evidence of it being sought. She advised that the applicant had made repeated contact with the respondent regarding repayment of the arrears however they were still outstanding.

8. The respondent's representative advised that she was instructed not to oppose the order for payment of rent arrears. She did not oppose the amendment to the sum sought either. She advised that the arrears had accrued due to the respondent's son going to college and she had lost her non-dependants' deduction and this had led to the rent arrears. She submitted that the respondent believed a number of letters seeking repayment of the arrears had gone to the wrong address and she had not therefore been alerted to the rent arrears. However the respondent was not disputing that these arrears were due.
9. The Applicant sought an order for £12, 060.03.

Findings in Fact

10. The Tribunal found the following facts to be established:

- a) A tenancy agreement was entered into between the Applicant and the Respondent for the property. It commenced on 4 October 2013.
- b) The tenancy agreement provided that monthly rent was £1175.
- c) The rent statement showed amounts rent due, rent paid and balance outstanding.
- d) Rent arrears up to 15 June 2021 totalled £12,060.03.

Reasons for Decision

11. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from assured tenancies. As this tenancy is an assured tenancy, we are content that we have jurisdiction to deal with this case.
12. The tenancy agreement created obligations between the parties including, the obligation to pay rent. The Respondent had failed to pay her rent.
13. Based on the evidence before us, which includes:- the papers submitted namely the application and the additional information received amending the sum sued; the verbal submission by the applicant's representative; and the confirmation from the respondent's representative that the respondent did not dispute the rent arrears and that they were instructed not to oppose the payment order sought. We consider that we should make a payment order of £12,060.03.

Decision

14. We grant an order in favour of the Applicant for the Sum of TWELVE THOUSAND AND SIXTY POUNDS AND 3 PENCE (£12,060.03) STERLING.

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.

M. B

5 July 2021

Legal Member/Chair

Date