



Decision with Statement of Reasons 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/19/1703

Re: Property at 5 West Morriston Farm, Earlston, TD4 6AZ (“the Property”)

Parties:

Hamish Morison Farming LTD, West Morriston, Earlston, TD4 6AY (“the Applicant”)

Mr Nathan Beck, Mayne Farm, Elgin, IV30 8RS (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment of ONE THOUSAND ONE HUNDRED AND SEVENTEEN POUNDS AND SIXTY-EIGHT PENCE (£1117.68). The Tribunal determined to make a Time to Pay Direction in terms of which the amount due will be repaid at the rate of £25 per week.

Background

1. By application received on 3rd June 2019 the applicant sought an order for payment of £1117.68 in respect of unpaid rent, unpaid water and kerosene charges and the cost of replacement keys.
2. A case management discussion took place on 30th July 2019. The applicant was present however the respondent was neither present or represented. The

Tribunal was satisfied that the respondent had been properly notified and proceeded with the CMD in his absence.

3. The Tribunal adjourned the CMD to a further CMD on 16th September 2019 and requested that the applicant lodge a number of supplementary documents.
4. Following the first CMD the Tribunal received an application for a Time to Pay Direction from the respondent. The respondent admitted the debt. He provided a schedule of his income and outgoings and offered to repay the debt at the rate of £20 per week.
5. The applicant was provided with a copy of the application for a Time to Pay Direction. The applicant objected to the amount of £20 per week being offered by the respondent and proposed that an acceptable amount would be £30 per week in light of the respondent's stated disposable income.

DISCUSSION

6. The respondent did not attend the CMD on 16th September 2019. He telephoned the Tribunal on the morning of the CMD to advise that he would not be present. He did not seek an adjournment for attendance. The Tribunal was satisfied that he had proper notice of the hearing and continued to determine the Time to Pay Direction.
7. The Tribunal noted from the Time to Pay Direction application that after stated deductions the respondent had a disposable income of £548 per month. However the respondent had stated that his monthly outgoings on food was £60. The Tribunal found this to be an underestimate, and may have reflected the weekly amount payable on food.
8. The Tribunal advised the applicant that if the debt was paid off at the rate of £25 per week this would clear the debt in well under a year. The applicant advised the Tribunal that he was agreeable to an order for £25 per week. The Tribunal were satisfied that £25 was affordable by the respondent.

Findings in Fact

9. The applicant and respondent entered into a lease in respect of the property in July 2018. The rent payable was £380 per month.

10. The respondent owes the applicant the sum of £1117.68 in respect of unpaid rent, kerosene and water charges and the cost of replacement keys.
11. The respondent accepts that the debt is due.
12. The respondent can afford to repay the debt at the rate of £25 per week on the basis of the income and outgoings stated in his Time to pay application.

Reasons for the decision

The respondent admitted the debt in the time to pay direction application. The respondent stated his income and outgoings in the time to pay direction application and the Tribunal found that £25 per week was a reasonable repayment arrangement taking into account the amount of the debt, the offer and counter offer to repay made by the parties and the respondent's personal circumstances.

Decision

The Tribunal made an order for payment of £1117.68 and granted a Time to Pay Direction allowing the respondent to repay the amount at the rate of £25 per week.

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.

Mary-Claire Kelly

Legal Member/Chair

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Date

16th September 2019