



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/2025

Re: Property at 153F Victoria Road, Torry, Aberdeen, AB11 9NB (“the Property”)

Parties:

Mr Gary Malcolm, 12D North Methven Street, Perth, Kinross (“the Applicant”)

Parkhill Properties, 81 Rosemount Place, AB25 2YE (“the Applicant’s Agent”)

Ms Theresa Banks, 153F Victoria Road, Torry, Aberdeen, AB11 9NB (“the Respondent”)

Tribunal Members:

Ruth O'Hare (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 in the sum of Two thousand seven hundred and forty one pounds and twenty three pence (£2741.23) against the Respondent.

Background

1 By application dated 1st July 2019 the Applicant sought an order for payment against the Respondent in respect of unpaid rent. In support of the application the Applicant provided the following documentation:-

- (i) Tenancy Agreement between the parties dated 28th September 2018;
- (ii) Notice to Leave dated 3rd May 2019 citing ground 12 and confirming that proceedings would be raised no earlier than 3rd June 2019;

(iii) Notice to Aberdeen City Council under section 11 of the Homelessness (Scotland) Act 2003;

(iv) Rent Account showing arrears of £1571.23 as at 27 June 2019;

(v) Email correspondence between the Applicant's Agent and the Respondent regarding the outstanding arrears.

- 2 By Notice of Acceptance of Application dated 15th August 2019 the Legal Member with delegated powers of the Chamber President intimated that there were no grounds to reject the application. A Case Management Discussion was therefore assigned for 2nd October 2019.
- 3 The application paperwork together with notification of the Case Management Discussion was served on the Respondents by Sheriff Officers on 29th August 2019.

The Case Management Discussion

- 4 The Case Management Discussion took place at Credo Centre on 2nd October 2019.
- 5 Emma Gray appeared on behalf of the Applicant's Agent. The Tribunal was satisfied that the Respondent had received proper notification of the Case Management Discussion and therefore determined to proceed in her absence.
- 6 Ms Gray confirmed that the arrears had increased to £2741.23. The last payment received was on 15th February 2019 for £71.23 which was a payment received from Aberdeen City Council. There had been no explanation as to why the payments from the Council had stopped. Ms Gray confirmed that the Respondent had been employed and had lost her job. The Applicant's Agent had tried to engage with her and had sought assistance from a caseworker from the Cyrenians. They had tried to come up with payment plan and were supporting her with paperwork however no additional payments had been forthcoming. There was no evidence to suggest any further payments of benefit would be due. The Applicant sought an order for payment in the increased sum of £2741.23.

Findings in Fact and Law

- 7 The parties entered into a Tenancy Agreement dated 28th September 2018 in respect of the Property;
- 8 The rent due under the terms of the Tenancy Agreement was £300 per month;

- 9 The arrears as at the date of the Case Management Discussion amount to £2741.23;
- 7 The Respondent is liable to pay arrears of rent in the sum of £2741.23.
- 8 Despite repeated requests the Respondent has refused or delayed in making payment.

Reasons for Decision

- 9 The Tribunal was satisfied that it was able to continue with the Case Management Discussion in the absence of the Respondent. She had received service of the application by Sheriff Officers. The Tribunal therefore considered it could reasonably assume that she was aware of the Case Management Discussion and had been given the opportunity to attend or make written representations in response to the application.
- 10 The Tribunal was further satisfied that it was able to make a determination of the application at the Case Management Discussion and that to do so would not be prejudicial to the interests of the parties.
- 11 Based on the verbal and written representations from the Applicant and the Applicant's Agent, the Tribunal accepted that the Respondent was due to make payment of rent in the sum of £300 in terms of the Tenancy Agreement entered into between the parties. She had failed to do so. She had not put forward any evidence to counter the Applicant's position in this regard. The Tribunal found the Applicant's evidence to be credible as put forward by his agent and therefore accepted his position.
- 12 The Tribunal further accepted that the arrears had increased to £2741.23 and that it would therefore be appropriate having regard to the terms of the application to increase the sum sought to that figure. The Tribunal considered that the Respondent would have had reasonable notice of same.
- 13 The Tribunal therefore determined to make an order for payment against the Respondent in the sum of £2741.23.

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.

R O'Hare

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Legal Member/Chair

2/10/19
_____ **Date**