



Decision 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/19/2332

Re: Property at 2 Donaldson Road, Methilhill, Methil, Fife, KY8 2LB ("the Property")

Parties:

Mrs Penelope Anne Wiewiorcka, Drey Cottage, New Gilston, Fife, KY8 5TF ("the Applicant")

Mrs Margaret Inglis, 2 Donaldson Road, Methilhill, Methil, Fife, KY8 2LB ("the Respondent")

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the Applicant was entitled to an order for payment by the Respondent in the sum of £1255.44 payable in terms of a Time to Pay Direction at the rate of £40.00 per calendar month.

Background

1. By application dated 17 July 2019 the Applicant's representative Mrs Emily Morrison, Wards Cottage, Wards Estate, Gartocharn applied to the Tribunal for an order for payment in respect of alleged rent arrears due by the Respondent to the Applicant. The Applicant's representative submitted a rent statement, a short assured tenancy agreement, an email from the Respondent a letter of authority from the Applicant, and a letter to the Respondent advising of the change of landlord.

2. Following further communications between the Tribunal administration and the Applicant's representative the Tribunal received copies of a Trust Deed signed by the Respondent, confirmation of the Applicant's authority to recover

arrears of rent due to the previous landlord and a revised rent statement confirming the arrears sought at the date of the application amounted to £1319.00.

3. By Notice of Acceptance dated 10 September 2019 a legal member of the Tribunal with delegated powers accepted the application and a Case Management discussion was assigned.

4. Intimation of the Case Management Discussion was given to the Applicant's Representative by post on 20 September 2019 and to the Respondent by Sheriff Officers on 24 September 2019.

5. By application dated 6 October 2019 the Respondent applied for a Time to Pay Direction under the Debtors (Scotland) Act 1987. In said application the Respondent accepted liability for the debt and offered to pay by instalments of £40.00 per calendar month.

6. By response dated 23 October 2019 the Applicant's representative accepted the Respondent's offer.

#### The Case Management Discussion

7. A Case Management Discussion was held at Fife voluntary Action, 16 East Fergus Place, Kirkcaldy on 24 October 2019. It was attended by the Applicant's representative, Mrs Emily Morrison. The Respondent did not attend and was not represented. As the Tribunal was satisfied that the Respondent had been given proper notice of the Case Management Discussion by Sheriff Officers the Tribunal determined to proceed in the absence of the Respondent in accordance with Rule 29 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 ("the 2017 Rules")

8. Mrs Morrison explained that the rent arrears had increased to £1453.44 however as she had not sought to amend the sum claimed in accordance with Rule 14A of the 2017 Rules the Tribunal was unable to accept an amendment to the sum claimed. Mrs Morrison further explained that two payments of £31.78 in respect of arrears of Housing Benefit had been received in September and October 2019 that reduced the arrears outstanding in July 2019 from £1319.00 to £1255.44. The Applicant was therefore seeking an order for payment of this amount by instalments in terms of the Time to Pay Direction of £40.00 per calendar month. The Applicant did not accept that there should be any further deductions as significant expenditure had been made on the property in recent years.

#### Findings in Fact

9. The respondent entered into a Short Assured Tenancy Agreement with Andrew Wieworka on 5 December 2011 which endured until 6 June 2012 and continued thereafter by tacit relocation.

10. Andrew Wiewiorka transferred title to the property to the Applicant on 9 January 2019 and the Applicant assumed all the landlord's rights and obligations from before and after that date.

11. The Respondent signed a Trust Deed for Creditors on 4 October 2017.

12. Arrears of rent amounting to £3492.62 were claimed by the Applicant as a debt in the Respondent's Trust Deed.

13. The Respondent accrued rent arrears post 4 October 2019 up to 6 July 2019 in the sum of £1319.00.

14. The Applicant received payment of Housing Benefit of £63.56 towards the arrears.

15. The amount of rent arrears post 4 October 2017 due by the Respondent at the date of the application to the Tribunal after deduction of payments made on her behalf by way of Housing Benefit is £1255.44.

16. The Respondent has applied for a Time to Pay Direction under the Debtors (Scotland) Act 1987 and offered to pay the debt at the rate of £40.00 per calendar month.

17. The Applicant has accepted the Respondent's offer.

#### Reasons for the Decision

18. The Tribunal was satisfied from the documents supplied by the Applicant's representative that the Applicant was entitled to claim any rent due by the Respondent both before and after title was transferred from her husband's name to her name as evidenced by the Assignment by Andre Wiewiorka dated 11 January 2019.

19. The tribunal was satisfied from the documents provided that the Respondent had accrued rent arrears post the signing of a Trust Deed on 4 October 2019 up to the date of the application in the sum of £1319.00 and that the Applicant had subsequently received two payments of housing benefit that reduced the arrears at that time to £1255.44.

20. As the Respondent had in terms of her application for a Time to Pay Direction accepted liability for the Debt and her offer to pay at the rate of £40.00 per calendar month had been accepted by the Applicant the Tribunal did not have to further consider the merits of the application and was prepared to grant the order in the terms proposed.

#### Decision

21. The Tribunal finds the Applicant entitled to an order for payment by the Respondent in the sum of £1255.44 and makes a Time to Pay Direction

ordering the Respondent to make payment of the said sum at the rate of £40.00 per calendar month.

#### 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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland (Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.

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Graham Harding  
Legal Member/Chair

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24/10/2019  
Date