

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of 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 Regulations”)

Chamber Ref: FTS/HPC/CV/18/2333

Re: Property at 3 Balbeggie Terrace, Dundee, DD4 8RL (“the Property”)

Parties:

Mr James Black, 14 Inveraldie Crescent, Tealing, Dundee, DD4 0QR (“the Applicant”)

Mr Craig Kilbride, 3 Balbeggie Terrace, Dundee, DD4 8RL (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order in favour of the Applicant against the Respondent for payment of the sum of £4,250 should be made.

Background

1. By application submitted on 3 September 2018, the Applicant sought a payment order of £4,250 against the Respondent in respect of rent arrears incurred in respect of the Property in terms of Rule 70 of the Regulations. The application also sought interest thereon at the rate of 8% per annum until paid and the expenses of the application.
2. Supporting documentation was submitted in respect of the application, including a Rent Statement.
3. On 19 September 2018, a Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Regulation 9 of the Regulations.

4. On 26 October 2018, a copy of the Application and supporting documentation was served on the Respondent by Sheriff Officer, together with intimation of the date, time and location set for a Case Management Discussion. Written representations were to be lodged by 9 November 2018. No written representations were submitted.
5. The case called before the Legal Member for a Case Management Discussion on 19 November 2018 at 2pm at Dundee Carer's Centre, Seagate House, 132-134 Seagate, Dundee, DD1 2HB. The Applicant was in attendance. The Respondent was not.

Case Management Discussion

6. The Applicant addressed his application and answered questions from the Legal Member. The Applicant advised that he entered into a Short Assured Tenancy with the Respondent in respect of the Property in April 2017. It was noted that the rent payable was £650 per calendar month. The Applicant advised that rent payments stopped coming in. He made reference to the Rent Statement lodged with the application and provided an updated Rent Statement showing the up to date position. The Applicant advised that he contacted the Respondent about the arrears. The Respondent said that he would make up the payments but he did not do so. The Applicant suspected that the Respondent may have lost his employment, although the Respondent did not say that. It was noted that the Respondent missed 7 monthly rental payments in a row by which time the arrears had reached £4,550. The Respondent then made payments of £650 and £300, reducing the arrears to £4,250 which was the amount of the arrears when the application was submitted to the Tribunal. More arrears have accrued since and further payments have been made, most recently £650 on 11 October 2018, but arrears currently amount to £4,900. The Applicant advised that he has not had any recent contact from the Respondent and does not know what his position is. The Respondent is still residing in the Property. The Applicant thinks that the Respondent's adult daughter lives there with him sometimes. The Applicant requested that the Tribunal grant him a payment order today in respect of the rent arrears.
7. The Legal Member explained that if a payment order was to be granted today, it would be limited to the amount sought in the application of £4,250, albeit that the Applicant had advised that the arrears now exceed this amount. Alternatively, if the Applicant wishes to increase the sum sought, he could seek the authority of the Tribunal to amend his application but the Legal Member explained that in that case, the matter would require to be a continued to a further Case Management Discussion in order that this could be intimated to the Respondent in advance. The Applicant confirmed that he would prefer the order for £4,250 to be granted today. The Legal Member also explained that no interest is awarded by the Tribunal and nor, in the circumstances of this case, would there be any award of expenses against the Respondent.

Findings in Fact

8. The Applicant is the owner and landlord of the Property.
9. The Respondent is the tenant of the Property by virtue of a Short Assured Tenancy dated 18 April 2017. The initial term of the tenancy in terms of the lease was one year from 20 April 2017 to 20 April 2018 and continued thereafter on a monthly basis.
10. The rent in terms of the lease is £650 per calendar month.
11. The Respondent initially made his due rental payments but then his payments stopped and he fell into arrears. He initially engaged with the Applicant concerning the arrears but has not addressed the arrears which amounted to £4,250 when this application was submitted and now exceed that, although some further erratic payments have been made. The Respondent has not been in recent contact with the Applicant and has not submitted any written representations in respect of the application or appeared at the Case Management Discussion.
12. The Respondent has incurred rent arrears in the sum of £4,250 during the period of the tenancy and this sum has not been paid.

Reasons for Decision

13. The Respondent did not submit any written representations to the Tribunal and did not attend the Case Management Discussion, having been properly and timeously notified of same. The Legal Member was satisfied from the information contained in the application and supporting documentation, together with the oral submissions made by the Applicant at the Case Management Discussion that the sum claimed in unpaid rent of £4,250 is due and owing by the Respondent.
14. The Legal Member concluded that the matter did not require to go to an evidential hearing and that an order for payment of the sum of £4,250 should be made.

Decision

15. The Legal Member accordingly determines that an order for payment by the Respondent of the sum of £4,250 should be made in favour of the Applicant.

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.

Nicola Weir, Legal Member

Legal Member/Chair

19 November 2018
Date