



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 of the Private Housing (Tenancies)(Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/1823

Re: Property at 62 Muir Street, Larkhall, ML9 2BQ (“the Property”)

Parties:

Mrs Caroline Inglis, 10 Birchfield Road, Hamilton, ML3 8NR (“the Applicant”)

Mr Ryan Semple, Mr Steven Semple, 45 London Street, Larkhall, ML9 1AQ; 26 Violet Crescent, Larkhall, ML9 3HZ (“the Respondents”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £495.00 (FOUR HUNDRED AND NINETY FIVE POUNDS ONLY) from the Respondents.

Background

1. An application was received by the Housing and Property Chamber dated 9th June 2022. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments.
2. On 24th October 2022 all parties were written to with the date for the Case Management Discussion (“CMD”) of 9th March 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 14th November 2022.

3. On 24th December 2019, sheriff officers served the letter with notice of the hearing date and documentation upon both of the Respondents. This was evidenced by Certificate of Intimation dated 24th December 2019.
4. A CMD was held 9th March 2023 at 2pm by teleconferencing. The Applicant was represented by Lesley Ann Barclay, Happy Lets. The Second Named Respondent was present and represented himself. The First Named Respondent was not able to attend due to work commitments. Mr Steven Semple is the second named Respondent and was the tenant of the Property. Mr Ryan Semple was the guarantor. Ms Barclay said that the arrears had been reduced to £495 and should be reduced to this amount if granted. The tenancy ended on or around 31st August 2022. Mr Steven Semple said that he was in receipt of state benefits. He is a single parent with a 14 year old child. Mr Semple admitted the debt. He is trying to pay the arrears but has limited income. The Tribunal discussed if he had considered a Time To Pay direction. A discussion followed regarding a Time To Pay Direction (“TTPD”). It was explained that this would allow the Respondent to pay up the outstanding arrears. Ms Barclay agreed to this in principle. The Tribunal noted that the Respondent will need to be active in applying for the TTPD. He will need to contact the Housing and Property Chamber to request that a TTPD be sent to him. If he is looking to seek money advice to help him complete the TTPD then this appointment will need to be made and attended in advance of the next CMD so that the Applicant can consider the contents of the TTPD. Once the TTPD has been completed it will need to be lodged with the Housing and Property Chamber. The Applicant and Tribunal would then be sent a copy of it. If the Applicant agreed to the amount offered then the case would be dealt with administratively and not proceed to the CMD. If the amount offered is not accepted by the Applicant then the case will proceed to the CMD. The Tribunal noted that a TTPD allows for the outstanding amount to be paid in instalments. Should those instalments stop before the debt is repaid then the Applicant is entitled to a full order for the remaining amount. The Tribunal also noted that should the Respondent decide not to proceed with a TTPD it will be most likely that at the next CMD the Tribunal would grant the full order as the debt has been admitted. The Respondent understood these points. He was willing to look at lodging a TTPD and will get money advice. Ms Barclay said that she had good relationships with local money advisers who should be able to help. She could make an appointment for him. Mr Semple was happy to work with Ms Barclay. Ms Barclay said that she and Mr Semple had a good relationship and she was happy to help him. She knew that he was concerned regarding the completing of such forms. She also said to Mr Semple that the money adviser would be able to help him complete the forms. Ms Barclay had said that she would complete the forms with him though the Tribunal noted that there could be an issue of conflict but that a money adviser would be a neutral party to assist. Ms Barclay will contact the money advisor group that she has a relationship with to assist Mr Semple. Adjourned to a further CMD to allow for a TTPD to be lodged by Mr Steven Semple and considered by the Applicant.

The Case Management Discussion

5. A CMD was held on 3rd May 2023 at 10am by teleconferencing. The Applicant was represented by Lesley Ann Barclay, Happy Lets. The Respondents were not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make representations in advance of the CMD. Mr Steven Semple is the second named Respondent and was the tenant of the Property. Mr Ryan Semple was the guarantor.
6. Ms Barclay told the Tribunal that there has been no further contact from the Respondents since the last CMD. Mr Steven Semple was to lodge a TTTD with the assistance of money advice. Ms Barclay was to make an appointment for him for that. However, Ms Barclay believes that this has not been done. There have been no payments made to the outstanding amount. There has been no contact from either of the Respondents. The amount due is £495.
7. The Tribunal noted that the Respondents were written to on 13th April 2023. The Tribunal was satisfied that the outstanding amount for £495 was due to the Applicant by the Respondent and that it was appropriate to grant an order accordingly.

Findings and reason for decision

8. A Private Rented Tenancy Agreement commenced 22nd October 2017. The tenancy ended on 31st August 2022.
9. An application for an order for payment was made to the Housing and Property Chamber on 9th June 2022. It stated that there were arrears of £1051.
10. Mr Steven Semple was the tenant and Mr Ryan Semple is the guarantor.
11. The Second Named Respondent persistently failed to pay his rent charge of £395 per month. The rent payments were due to be paid on 22nd day of each month.
12. A CMD was heard on 9th March 2023. Mr Steven Semple admitted the debt but was to look to get money advice and submit a TTTD. Ms Barclay was to assist him to get a money advice appointment. No TTTD was submitted and Mr Steven Semple did not contact Ms Barclay after the CMD.
13. The outstanding debt was admitted by Mr Steven Semple.
14. The arrears sought total £495. This was reduced from the amount in the application of £1051 as payments had been made by The Respondents. No further payments have been forthcoming since the CMD on 9th March 2023.

Decision

15. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £495 from the Respondents.

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.

Gabrielle Miller

Legal Member/Chair

3rd May 2023
Date