



Decision with Statement of Reasons 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/22/4197

Re: Property at 193 Main Street, Wishaw, Lanarkshire, ML2 7NE (“the Property”)

Parties:

REWD G7LYO Limited, REWD Group HQ, Unit 4 Barons Court, Grangemouth, FK3 8BH (“the Applicant”)

Mr Adrian Carac, 193 Main Street, Wishaw, Lanarkshire, ML2 7NE (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted in favour of the Applicant from the Respondent for the amount of £8400 (EIGHT THOUSAND AND FOUR HUNDRED POUNDS)

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £9075.00 in terms of s16 of the Housing (Scotland) Act 2014.
2. On 2nd May 2023, all parties were written to with the date for the Case Management Discussion (“CMD”) of 8th June 2023 at 10am by teleconferencing. The letter also requested all written representations be submitted by 23rd May 2023.
3. On 3rd May 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by leaving it in the hands of the

Respondents' son Lorenzo Carac. This was evidenced by Certificate of Intimation dated 3rd May 2023.

4. On or around 6th June 2023 the Respondent contacted the Housing and Property Chamber advising that he is to be represented by Citizens Advice Bureau ("CAB"). He asked that the case be postponed to allow CAB to assist him. The Tribunal was notified of this directly prior to the CMD but there had been insufficient time to notify the Applicant.
5. A CMD was held on 8th June 2023 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Andrew Richmond, Trainee Solicitor, Anderson Strathern. The Respondent was not present. The Tribunal proceeded in terms of Rule 29 of the Rules. The Tribunal noted that the Respondent had been in contact with the Housing and Property Chamber advising of CAB's involvement but that there had been insufficient time to notify the Applicant. Mr Richmond said that he had been aware of CAB's involvement and the management agent had spoken to them. He noted that payments have been received from the Respondent but not consistently. Mr Richmond said that the Applicant would consider a Time To Pay Direction ("TTPD") if a reasonable payment proposal was offered. It was noted that this would allow the Respondent to pay up the outstanding arrears. The Tribunal noted that if the Respondent wished to apply for a TTPD then he would need to be active in applying for the TTPD. He would 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 would 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 will then be sent a copy of it. If the Applicant agreed to the amount offered then the case will be dealt with administratively and will 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 then the case will proceed to a CMD. The Tribunal also noted that parties are free to negotiate regardless of whether a TTPD is being considered or not. Mr Richmond told the Tribunal that he had spoken to the Respondent on the telephone on more than one occasion. He raised that the Respondent is not a native English speaker. The Tribunal said that the Housing and Property Chamber can make available an interpreter for any CMD or hearing. The Housing and Property Chamber can also arrange for papers to be translated if requested. The Tribunal adjourned the CMD in the interests of justice to allow the Respondent to instruct his representative. The case was adjourned to a further CMD to allow for the Respondent to instruct his representative
6. The Applicant's solicitor emailed the Housing and Property Chamber on 14th August 2023 to amend the sum sought to £8400. This email included a rent

account for the period 18th December 2022 to 3rd August 2023 showing the arrears at £8400.

Case Management Discussion

7. A CMD was held on 30th August 2023 at 10am by teleconferencing. The Applicant was not present but was represented by Mr Andrew Richmond, Solicitor, Anderson Strathern. The Respondent was not present. There was no correspondence from the appointed representative or the Respondent. The Tribunal proceeded in terms of Rule 29 of the Rules.
8. Mr Richmond said that he did not have concerns that the Respondent could not understand English sufficiently to engage in these proceedings. He has spoken to the Respondent on the telephone.
9. Mr Richmond said that the arrears had been reduced in terms of his email of 14th August 2023. The arrears are now £8400. The Tribunal was content to amend to this amount.
10. The Tribunal was satisfied that £8400 was due to the Applicant and that it was appropriate to grant the application.

Findings in Fact

11. The parties entered into a Short Assured Tenancy on 18th August 2017 for a 6 month period and on a month to month basis thereafter. An AT5 was signed by both parties on the same date as the lease. The rent payments of £350 are due by the 18th day of each month.
12. The Housing and Property Chamber received an application with an email dated 25th May 2023.
13. The Respondent has persistently not made rent payments. There have been more than 3 missed payments. The amount outstanding has to £8400 which is less than the amount of the application but the Respondent has not cleared the arrears.
14. The arrears due to the Applicant amounts to £8400.

Reasons for Decision

15. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 18th December 2022 to 3rd August 2023 in which payments have been missed amounting to £8400 in rent arrears. The Tribunal decided that the Respondent had persistently not paid the rent and was in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £8400 against the Respondent.

Decision

16. The Applicant is entitled to an order of payment of £8400 by the Respondent.
The Order was granted against the Respondent.

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

30th August 2023

Legal Member/Chair

Date