



Decision and 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/21/0024

Re: Property at 17 Stewartfield Grove, East Kilbride, G74 4XL (“the Property”)

Parties:

Mr Patrick Doherty, 16 Bowmore Crescent, Glasgow, G74 5DD (“the Applicant”)

Ms Bianca Alana Bowie, 17 Stewartfield Grove, East Kilbride, G74 4XL (“the Respondent”)

Tribunal Member:

David Preston (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the respondent to the applicant of the sum of FIVE THOUSAND ONE HUNDRED AND EIGHTY ONE POUNDS AND 84 PENCE (£5181.84) should be made.

Summary of Discussion

1. Following the Case Management Discussion (CMD) on 17 March 2021 a Note was issued advising the parties that a further CMD had been scheduled for 1000 on 20 April 2021.
2. On that date, a CMD was convened at which Mr Jwad Hanif, Solicitor, Miller Beckett & Jackson, Solicitors attended by telephone on behalf of the applicant. There was no appearance by or on behalf of the respondent by 1020am.
3. The respondent had been present at the CMD on 17 March 2021 when the continued CMD was arranged in the presence of the parties. In addition, the Note of CMD which included details of the adjourned hearing had been issued to the parties and a Notification Letter dated 26 March 2021 was emailed to the

respondent on that date. Accordingly, the tribunal was satisfied that the respondent had been given due notice of the continued CMD and was content to proceed in her absence.

4. In addition to the papers which had been before the tribunal on 17 March 2021 it had:
 - a. letter dated 13 April 2021 from the applicant's solicitor seeking to amend the sum sought to £5537.68;
 - b. email from the applicant's solicitor dated 19 April 2021 with email correspondence between the parties dated: 17, 18 and 23 July 2020; 17 and 31 March 2021; and 11 and 14 April 2021.

The tribunal noted that the letter of 13 April 2021 and the email of 19 April 2021 had been crossed over to the respondent by the administration.

Discussion

5. The tribunal calculated that the rental arrears sought in the application amounted to £5268.84 as detailed in the Paper Apart, to which further arrears amounting to £1112.56 as detailed in the letter of 13 April 2021 fell to be added totalling £6381.40, from which the sum of £1200 fell to be deducted as detailed in said letter of 13 April 2021 leaving a balance of arrears of £5181.84. Mr Hanif agreed with the tribunal's calculation of the balance of arrears.
6. Mr Hanif advised the tribunal that nothing further had been heard from the respondent following the emails of 14 April 2021 and that, as demonstrated in the email chain, efforts had been made to negotiate a payment plan to clear the arrears without success and without any payment having been made towards the arrears. Accordingly, he sought an Order in the amended sum on behalf of his client.
7. As this sum was less than the figure in the letter of 13 April 2021 which had been crossed over to the respondent the tribunal was content to amend the application to the sum of £5181.84.

Findings in Fact

8. The parties entered into a Short Assured Tenancy dated 25 August 2016 at a rent of £675 per month which was increased to £700 per month by agreement from 25 March 2019.
9. The respondent maintained payments of the rent at the agreed sum until March 2020 when payments stopped. From October 2020 the applicant received the sum of £356.28 month from DWP.

10. On 19 March 2021 the applicant was awarded a Discretionary Housing Payment of £1200 by South Lanarkshire Council which was paid to the applicant.
11. The outstanding balance of arrears of rent amounts to £5181.84.

Reasons

12. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information presented to it, it was able to determine the application at the CMD.
13. The reason for the continuation of the CMD from 17 March 2021 was to allow the respondent a further opportunity to complete and submit a Time to Pay Direction Application which would enable the tribunal to assess a reasonable timescale over which realistic payments could be made to clear the arrears. At that CMD the applicant's agent also suggested that the applicant would be willing to negotiate a payment plan to clear the arrears. The respondent had failed to submit a Time to Pay Direction Application and accordingly the tribunal did not have details of the respondent's current financial situation.
14. The tribunal had regard to the correspondence between the parties in July 2020 and noted that the respondent accepted her liability for the arrears of rent which had accrued. She proposed that she would pay around £100 per month but the applicant's position was that this was too low and asked for £200 per month. There was no further correspondence produced to the tribunal between July 2020 and the email chain following the CMD on 17 March 2021. The applicant's agent advised that no further payments had been received from the respondent towards the arrears.
15. The email from the applicant's agents of 17 March 2021 to the respondent sought settlement proposals but none were forthcoming beyond an offer to re-commence payments of rent in full once things go back to normal. The correspondence confirmed that part of the rent (£343.72) was being covered by DWP payments but that arrears continued to accumulate at the rate of £356.28 per month in respect of which the respondent made no proposals.
16. The tribunal recognised the difficulties in which the respondent found herself as a result of the pandemic but in terms of the Short Assured Tenancy Agreement between the parties dated 25 August 2016 the applicant is entitled to receive payment of the rent in full from or on behalf of the respondent. Whilst efforts have been made to negotiate a payment plan without success, the respondent has made no effort to make any payment towards the arrears apart from the Discretionary Housing Payment and the DWP payments. The DWP payments contribute towards current rental payments but do not address the issue of arrears. In the absence of detailed financial information from the respondent the tribunal is unable to assess

a reasonable timescale over which realistic payments could be made to clear the arrears and has no alternative but to grant the order in full.

NOTE: This document is not confidential and will be made available to other First-tier Tribunal for Scotland (Housing and Property Chamber) staff, as well as issued to tribunal members in relation to any future proceedings on unresolved issues.

D Preston

20 April 2021