



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) 2016 Act

Chamber Ref: FTS/HPC/CV/22/4188

Re: Property at 102 Barshaw Road, Glasgow, G52 4EB (“the Property”)

Parties:

Edward Tweedie, Suite 204, Old Embroidery Mill, Abbey Mill Business Centre, Paisley, PA1 1TJ (“the Applicant”)

Maria Reilly, 102 Barshaw Road, Glasgow, G52 4EB (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Ann Moore (Ordinary 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 in the sum of £5,075 be granted against the Respondent.

Background

- 1) This was an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy of the Property by the Applicant to the Respondent commencing on 1 December 2021.
- 2) The application was dated 21 November 2022 and lodged with the Tribunal on that date. The application sought payment of arrears of £5,075 due to that date and was accompanied by a rent statement showing a shortfall of £350 on the rental payment of £525 due on 1 December 2021 and thereafter nine missed rental payments of £525 from 1 March to 1 November 2022. The lease for the Tenancy accompanied the application and it detailed a rental payment of £525 payable in advance on the 1st of each month.

The Hearing

- 3) The matter called for a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 20 March 2023 at 10:00. We were addressed by the Applicant’s administrative assistant, John Greenfield, who worked for the Applicant’s property business “Edward Tweedie Properties”. The Applicant was also on the call but did not speak. There was no appearance from the Respondent.
- 4) We were informed by the clerk that no contact had been received from the Respondent (or on her behalf) with the Tribunal. The Applicant’s agent said that there had been no recent contact from the Respondent since March 2022. An attempt to speak to her at the Property was made in Summer 2022 when the door was opened by a friend who explained that the Applicant was on holiday. The last material communication by the Respondent was via Glasgow City Council in 2022 in regard to complaints about repairs (discussed further below and detailed more fully in the conjoined eviction application under reference EV/22/4187).
- 5) We considered that the Respondent had received clear intimation of the CMD from Sheriff Officers. Having not commenced the CMD until around 10:05, we were satisfied to consider the application in the Respondent’s absence. In any case, no attempt was made by the Respondent to dial in late to the CMD.
- 6) At the CMD, the Applicant’s agent confirmed that the application was still insisted upon and that there had been no payments against the arrears (nor rent that had arisen since, which now amounted to £7,175 for the period to 31 March 2023).
- 7) The Applicant’s agent stated that he had no knowledge of any benefits being sought or any issues arising from benefits. Rent had always been paid promptly by the Respondent until early 2022. The Applicant’s agent provided the following information on the history of the arrears:
 - a) The Applicant first occupied the Property in 2016. At that time, she was not believed to be working, but discussed looking for work.
 - b) Rent was paid promptly by the Respondent to the Applicant direct to the Applicant through to 2021. The only issue with rent was that the Respondent had previously asked permission not to pay rent in December, and pay double in January. This was agreed to and the December arrangement was maintained for a number of years.
 - c) No rent was received in December 2021, which the Applicant expected further to the agreed arrangement. In January 2022, however, only an extra £100 was paid (along with the usual £525 rent). In February 2022, an extra £75 was paid (along with the usual £525 rent). No payments had been received since.
 - d) Around Spring 2022, contact was received from Glasgow City Council to the Applicant regarding two complaints by the Respondent, regarding works to the Property and alleged mould. The Applicant disputed that either were a ground for retaining rent but, in any case, further correspondence

was then received from the Council saying that they were taking matters no further as the Respondent was not cooperating with them, and so the Council was taking no steps against the Applicant.

e) There had been correspondence to, and multiple attempts to contact, the Respondent on the arrears but this had not been successful in making contact with her since Spring 2022 and no proposal had been received.

8) No motion was made for expenses or interest.

Findings in Fact

9) On 18 November 2021 the Applicant let the Property as a Private Residential Tenancy to the Respondent under a lease with commencement on 1 December 2021 ("the Tenancy").

10) In terms of clause 7 of the Tenancy Agreement, the Respondent required to pay rent of £525 a month in advance on the 1st day of each month.

11) As of 21 November 2022, there was unpaid rent of £5,075 being a shortfall of £350 on the rent due on 1 December 2021 and then unpaid rent due for the period 1 March to 30 November 2022, being nine unpaid months of rent at £525 per month.

12) On 21 November 2022, the Applicant raised proceedings against the Respondent for an order for payment of the rent arrears of £5,075 for rent due to 30 November 2022.

13) On 14 February 2023, the Tribunal intimated to the Respondent the date and time of the CMD of 20 March 2023 by Sheriff Officer.

14) The Respondent provided no evidence of payment of any part of the said unpaid rent of £5,075 for the period to 30 November 2022.

Reasons for Decision

15) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. We were satisfied, on the basis of the application and supporting papers, that rent arrears of £5,075 were due for the period to 30 November 2022 and remained outstanding as of today.

16) If the Respondent did believe that she had grounds to retain or dispute the rent in regard to works to the kitchen or mould, she took no meaningful steps to advance her position. In the circumstances, we were satisfied to hold that the outstanding rent was due and was not being validly retained or withheld for any other reason.

17) The application clearly set out the sums and we were satisfied that the necessary level of evidence for these civil proceedings had been provided. No dispute was stated by or on behalf of the Respondent.

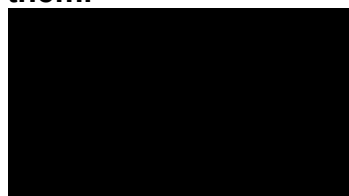
18) The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. We were thus satisfied to make a decision at the CMD to award the sum of £5,075, being an order restricted to sums due under the Tenancy in regard to rent up to 30 November 2022.

Decision

19) In all the circumstances, we were satisfied to make the decision to grant an order against the Respondent for payment of £5,075.

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.



20 March 2023

Legal Member/Chair

Date