



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/18/1211

Re: Property at 15 Connage Place, Ardersier, IV2 7UB (“the Property”)

Parties:

Highland NHT2 2012 LLP, 28 Queensgate, Inverness, IV1 1YN (“the Applicant”)

Mr Charles William Watt, 15 Connage Place, Ardersier, IV2 7UB (“the Respondent”)

Tribunal Members:

Helen Forbes (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted

• **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 Applicant initially sought an order for payment in the sum of £2024.89 in terms of section 16 of the Housing (Scotland) Act 2014. An amendment to the sum sought was made by the Applicant in terms of Rule 13 dated 20th July 2018. The Applicant sought to amend the sum sued for to £3,534.02. The application for amendment was served upon the Respondent on 24th July 2018.

The Tribunal had before it the following documents:

- (i) Application dated 15th May 2018
- (ii) Short Assured Tenancy Agreement between the parties dated 12th October 2017
- (iii) Form AT5 dated 10th October and 12th October 2017
- (iv) Application to amend dated 20th July 2018

(v) Letter from the Respondent's representative dated 30th July 2018

- **Case Management Discussion**

2. The Applicant was represented at the Case Management Decision by Mr Angus Brown, Solicitor. Ms Claire Stoddart, Marketing and Lettings Officer for Highland Housing Alliance, and Mrs Gail Matheson, Chief Executive Officer of Highland Housing Alliance, and agent for the Applicant were also present. The Respondent was present, and represented by Ms Kathleen Cousins, SLAB Housekeeping Project Advisor, with Nairn Citizens Advice Bureau.

At this point, the Chair of the Tribunal considered that there may be a potential conflict of interest, in that she was personally acquainted with Mrs Matheson. Mrs Matheson indicated that she would leave if that was required. The Tribunal adjourned in order for the Chair to consider the position and make further enquiries.

Having considered the position, the Chair requested further information from Mr Brown as to Mrs Matheson's position within the Applicant's organisation and her pecuniary position. Mr Brown said that Mrs Matheson was employed and paid by the Highland Housing Alliance, and one of three members of that organisation representing the Applicant. There was no remuneration paid to her in respect of the work undertaken for the Applicant.

The Chair then explained the position to the Respondent and his representative, stating that she and Mrs Matheson had known each other for a long period, although they rarely met. The Chair had no knowledge of Mrs Matheson's employment and had not recognised her by her surname. The Chair explained that there was a potential conflict of interest and that, although she could assure the Respondent that her knowledge of Mrs Matheson would not lead to any bias in favour of the Applicant, the question was whether the Respondent could be satisfied that his case would be heard impartially. If the Respondent was not so satisfied, the Chair would recuse herself and the case would be heard by a different Chair. The Respondent was given time to discuss matters with his representative in private.

Having considered matters, the Respondent informed the Tribunal that he would prefer to continue with the Case Management Discussion today and that he was satisfied of a fair, unbiased hearing.

3. The Tribunal reconvened in the absence of Mrs Matheson.

The Respondent confirmed he had received the application for amendment dated 20th July 2018.

Mr Brown moved the Tribunal to grant the order as craved in terms of the amendment which had been served upon the Respondent. The Applicant had not received any opposition to the application. The Applicant had suffered loss due to the rent not having been paid by the Respondent over a long period. The last payment by the Respondent had been made on 1st

February 2018, when £50 had been paid. No further payment had been made thereafter.

The Respondent accepted that the sum of £3,534.02 was outstanding and that he had not made payment since 1st February 2018.

Mr Brown made a motion that an order for payment be granted to the date when any order for possession might take effect, which would not be before 14th September 2018. The Applicant would suffer further loss between now and then, and the Applicant was seeking to further amend the sum sought to £4021.08 to reflect the position.

Mr Brown said that the suggestions made by the Respondent's representative in their letter of 30th July 2018 that another tenancy agreement be entered into was not a position that the Applicant would accept.

The Respondent said he would be making payment of the rent plus £150 towards the arrears every month. He would be paid on 24th of the month and would start making payment then. He said that he had offered to make payment in February but had been told by the Applicant that this could not be done. Ms Stoddart confirmed that the Respondent had been told that the Notice to Quit would not be cancelled, but a payment arrangement could be entered into. It was pointed out to the Respondent that there was no tenancy agreement in place now, so any payment made would go to the arrears.

- **Findings in Fact**

4.

- (i) The parties entered into a Short Assured Tenancy dated 12th October 2017. The initial term of the tenancy was to 11th April 2018 and monthly thereafter.
- (ii) The rent due for the property was initially £470.54 per month, increasing to £487.04 in April 2018.
- (iii) The Respondent has failed to make payment of rent lawfully due in terms of the lease.
- (iv) The rent arrears outstanding to date are £3534.02
- (v) The Applicant is entitled to recover the unpaid rent as set out in the Application and the application to amend.

- **Reasons for Decision**

5. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Tribunal did not grant the further amendment sought by the Applicant for payment of rent due between now and the date that any order for possession takes effect, as the sums are not

yet due or outstanding and it would not be competent for an order to be granted to include sums not yet due or outstanding.

- **Decision**

6. The Tribunal granted an order for payment in the sum of £3534.02.

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.

Helen Forbes

Legal Member/Chair

14th August 2018
Date