

Housing and Property Chamber
First-tier Tribunal for Scotland



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/19/1575

Re: Property at 212 Main Street, Wishaw, ML27LU (“the Property”)

Parties:

TCIB Residential LLP trading as Newkeylets, 119 Main Street, Wishaw, ML2 7AU (“the Applicants”)

Mr Allan Nisbet, Ms Louise Ford, 212 Main Street, Wishaw, ML27LU; 212 Main Street, Wishaw, ML2 7LU (“the Respondents”)

Tribunal Members:

Petra Hennig-McFatrige (Legal Member)

Decision in absence of the Respondents

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £900 rent arrears should be granted

Procedural Background:

The application was made on 22 May 2019. The application asked for payment of the sum of £900 for rent arrears in respect of the property.

Attached to the application were:

1. the Private Rented Tenancy Agreement for tenancy commencing 5 December 2017,
2. Customer Ledger up to and including 22 May 2019 for the property showing arrears as at that date of £900

A Case Management Discussion (CMD) was scheduled for 14 August 2019 and both parties advised of the date, time and venue.

Sheriff Officers confirmed service of the notification documentation on the Respondents having been carried out on 10 July 2019.

No representations were received from the Respondents. The Respondents had not contacted the Tribunal prior to the CMD and did not attend.

The Tribunal was satisfied that he had been appropriately notified of the application and the CMD.

The Case Management Discussion

Mr Andy Smith, partner in Newkeylets, attended the CMD for the Applicants. The Respondents did not attend. Mr Smith advised that the arrears continue to stand at £900.

He referred the Tribunal to the documents lodged with the application, which are referred to for their terms and held to be incorporated herein. He further explained that the arrears arose during a time when the Respondents received housing benefit directly paid to them, which they did not pass on in rental payments. The Applicants had since applied for direct payments and are currently in receipt of payments of Universal Credit directly paid to the Applicants, which is why the arrears remained constant for the last few months. The Respondents have not made any attempt to repay the arrears and are ignoring communications. The arrears of £900 have been in place since February 2019 as shown in the customer ledger. There is no deposit lodged for the tenancy. The Applicants are no longer seeking interest payments.

There were no representations from the Respondents.

Findings in Fact:

- 1. The parties entered into a Private Residential Tenancy for the property with a start date of 5 December 2017 (clause 5).**
- 2. Rent of £450 per month is payable in advance on the 5th of the month (clause 7)**
- 3. Between 6 December 2018 and 13 March 2019 no payments were received.**
- 4. On 14 March 2019 Universal Credit payments started to be paid directly to the Applicants reducing the arrears to £900.**
- 5. The Respondents have not made any payments towards the arrears.**
- 6. The outstanding amount as of 14 August 2019 is £900.**
- 7. No deposit has been lodged (Clause 10).**

Reasons for the Decision:

The Tribunal make the decision on the basis of the written evidence lodged by the Applicant and the information given at the hearing by Mr Smith.

In terms of Rule 17 of the Rules of Procedure:
Case management discussion

- 17.—(1) The First-tier Tribunal may order a case management discussion to be held—
- (a) in any place where a hearing may be held;
 - (b) by videoconference; or
 - (c) by conference call.
- (2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.
- (3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—
- (a) identifying the issues to be resolved;
 - (b) identifying what facts are agreed between the parties;
 - (c) raising with parties any issues it requires to be addressed;
 - (d) discussing what witnesses, documents and other evidence will be required;
 - (e) discussing whether or not a hearing is required; and
 - (f) discussing an application to recall a decision.
- (4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

However, in terms of Rule 18 of the Rules of Procedure:

- 18.—(1) Subject to paragraph (2), the First-tier Tribunal—
- (a) may make a decision without a hearing if the First-tier Tribunal considers that—
 - (i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and
 - (ii) to do so will not be contrary to the interests of the parties; and
 - (b) must make a decision without a hearing where the decision relates to—
 - (i) correcting; or
 - (ii) reviewing on a point of law, a decision made by the First-tier Tribunal.
- (2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties.

The Respondents did not make any written representations and did not attend the CMD. The Tribunal did not consider that there was any need for a hearing as the facts of the case were not disputed and the evidence was sufficient to make the relevant findings in fact to determine the case.

The rent outstanding as of the date of the CMD based on the amounts paid as per the Customer Ledger and the rent charge of £450 per calendar month and the information from Mr Smith at the CMD is £900. The application asked for payment of £900. There was no deposit to consider.

There was no valid defence to the action. It is not in dispute that the sum of rent arrears are due by the Respondents to the Applicants.

The Applicants are entitled to payment of the sum of £900 by the Respondents.

Decision:

The Tribunal grants an order for payment of the sum of £900

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.

P Hennig - McFatridge

Legal Member/Chair

Date

14. 8. 19