



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 71(1) of the Private Housing
(Tenancies) (Scotland) Act 2016.**

Chamber Ref: FTS/HPC/CV/20/1687

Re: Property at 29 Hillview, Airdrie, North Lanarkshire, ML6 7TG (“the Property”)

Parties:

Thuc Oanh Thi Luong-Mawson, c/o Jewel Homes Ltd, Atrium Business Centre, North Caldeen Road, Coatbridge, ML5 4EF (“the Applicant”)

Ms Shirley McLaughlan, 29 Hillview, Airdrie, North Lanarkshire, ML6 7TG (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

This Hearing was a Case Management Discussion fixed in terms of Rule 17 of the Procedure Rules and concerned an Application under Section 71 of the Housing (Scotland) Act 2016 for civil proceedings in relation to a Private Residential Tenancy. The purpose of the Hearing being to explore how the parties dispute may be efficiently resolved.

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order of Payment against the Respondent for the sum of £2780.

Attendance and Representation

The Applicant was represented by Keira Young, Clarity Simplicity Ltd, 34 woodlands Road, Glasgow, G3 6UR

The Respondent did not attend the Tribunal.

Preliminary Matters

This case last called for a Case Management Discussion on the 17th November 2020. Prior to that hearing the Respondent had lodged a Time to Pay application and the Respondent had lodged a response to same. However both parties were not in attendance and the CMD was adjourned to today's date to allow parties to appear.

There were no other preliminary matters arising.

Matters Raised - Summary

The Tribunal confirmed with the Applicant's representative that they had had not heard from the Respondent. Ms Young confirmed that the Applicant had not to her knowledge had any contact with the Respondent. The position she said remained that the Applicant was opposed to the Time to Pay Application and they sought a payment order for the full sum or she said an increased time to pay amount to on or around £100 per month.

The Applicants position and the position in the Response to the Time to Pay Application by the Respondent was that in its current terms then the Time to Pay Application would take over 11 years to clear the sum sought. The Applicants submission was that the Time to Pay Application and the details within the rent statement and evidence lodged was that the liability was accepted for the total sum of arrears and in the absence of the Respondent they sought an order for the sum owed.

The Tribunal noted the terms of the Time to Pay Application offering £20 pounds per month and that the sum owed and liability was accepted for was £2870.

There were no other matters arising.

Reasons for Decision and Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent was not in attendance both as this Hearing and on 17th November. A further opportunity had been extended for her attendance given the non- attendance at the last hearing. The Respondent is still residing at the address in the instance. The Respondent was personally served by the Tribunal but Sheriff Officers on 14th October 2020. Further intimations of this hearing was sent to the Respondent.**
- 2. The Tribunal was satisfied that the relevant tenancy was in terms of the 2016 Act, a Private Residential Tenancy properly constituted and**

dated 31st July 2019. The Tribunal was further satisfied that the rent due was £500 per month and on the evidence before the Tribunal rental arrears had accrued in terms of this tenancy to the sum of £2780. Rental evidence had been lodged by the Applicant evidencing the rent due. Further the Respondent accepted the debt due in lodging the Time to Pay Application.

3. The Respondent had lodged a Time to Pay Application. She sought to pay the amount of £20 per month. The Tribunal considered in the details the terms of this application as well as the written and oral response to same by the Applicant. The Tribunal noted the amount offered would mean the debt would not be paid for over 11 years and in light of this the Tribunal considered that it was not appropriate nor reasonable to grant the Time to Pay application in its current terms. The Tribunal had due regard to the nature and reasons for the debt accruing and the financial circumstances of the Respondent but the reasonableness of the length of time it would take to repay the debt outweighed this. The Tribunal was unable to address this matter directly with the Respondent as she had not engaged with the Tribunal since the lodging of the Time to Pay Application over 2 hearings. The Tribunal refused the Time to Pay Application.
4. Accordingly in terms of Section 71(1) of the Housing (Scotland) Act 2016 the Tribunal granted a payment order against the Respondent for the sum of £2780.

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.

Karen Kirk

Legal Member/Chair

17th December 2020
Date