



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 (“the 2014 Act”) and Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/CV/21/1669

Re: Property at 1 Dromore Cottage, Townhead, Kirkcudbright, DG6 4XH (“the Property”)

Parties:

Mr Raymond Ian Proud, 2 Dromore Cottage, Townhead, Kirkcudbright, DG6 4XH (“the Applicant”)

Gillespie, Gifford & Brown LLP, Solicitors, 27 St Cuthbert Street, Kirkcudbright (“the Applicant’s Representative”)

Mr Daniel Nathan Bayes, 1 Dromore Cottage, Townhead, Kirkcudbright, DG6 4XH (“the Respondent”)

Tribunal Members:

Ms. Susanne L M Tanner Q.C. (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that the Respondent should pay to the Applicant the sum of TWO THOUSAND THREE HUNDRED AND FORTY POUNDS (£2340.00) STERLING; and made an Order for Payment in respect of the said sum.

Procedural background

1. The Applicant made an Application to the tribunal on 12 July 2021, in terms of Section 16 of the 2014 Act and Rule 111 of the 2017 Rules, seeking an order for payment against the Respondent in the sum of £2430.00 in respect of rent arrears from February to July 2021 in the sum of £2280.00 and water for the same period in the sum of £60.00.
2. The Application documentation submitted by the Applicants' Representative comprised:
 - 2.1. A Private Residential Tenancy agreement dated 11 November 2018; and
 - 2.2. A rent ledger showing rent arrears and water payments due.
3. The tribunal's administration obtained the Title Sheet for the Property which shows that the Applicant was registered as proprietor on 1 November 2018.
4. On 24 August 2021, the Application was accepted for determination by the tribunal.
5. By letter of 6 September 2021, parties were notified of the date, time and place of a Case Management Discussion ("CMD") teleconference on 6 October 2021 at 1400h. The Respondent was invited to submit written representations to the Application by 27 September 2021.
6. The Respondent was served with the application paperwork and notification of the CMD by Sheriff Officers.
7. No written representations were submitted by the Respondent in advance of the CMD.

CMD: 6 October 2021, 1400h, teleconference

8. The Applicant and his representative Ms Jean McKnight from the Applicant's Representative attended.
9. The Respondent did not attend the CMD. The tribunal was satisfied that the requirements of rule 24(1) regarding the giving of notice of a hearing had been duly complied with and proceeded with the Application upon the representations of the party present and all the material before it, in terms of Rule 29.
10. Ms McKnight stated that she was seeking a payment order for £2340.00, as stated in Section 5(b) of the Application, being £2280.00 for rent arrears and £60.00 for water arrears. She confirmed that there is a typographical error in Section 5(c) and

for clarification, Ms McKnight asked that the Application be amended to reflect the sum claimed of £2340.00 in Section 5(c). The tribunal allowed the amendment to Section 5(c) to show that the sum claimed is £2340.00.

11. The Applicant confirmed that the Respondent only moved out of the Property yesterday. He stated that nothing has been paid towards rent or water arrears since the Application was made and no rent or water payments have been made subsequently on 7 August or 7 September 2021.
12. Ms McKnight confirmed that the rent and electricity arrears being sought in the present Application are those to 6 August 2021 in the sum of £2280.00 and £60.00 respectively. The hearing adjourned for Ms McKnight to take instructions from the Applicant and she confirmed that she is seeking an order today for the sum of £2340.00 for the arrears to 6 August 2021. She reserved the Applicant's position in respect of further proceedings to seek arrears to the end of the tenancy.
13. In relation to the rent arrears, Ms McKnight relied on the obligation to make rent payments as specified in the tenancy agreement, which is the sum of £380.00 paid monthly in advance on 7th of each calendar month.
14. In terms of the claim for water payment, Ms McKnight stated that there is no provision in the lease for the water supply payment to be made by the Respondent to the Applicant. Mr Proud stated that the Property was purchased from a gentleman who already had the Respondent as a tenant. A new tenancy agreement was entered into. The Ministry of Defence (MOD) were originally supplying the water without charge. The MOD then said that there would be a charge applied. In 2020, the Respondent agreed verbally to add £10 onto the monthly rent payment. That was prior to the end of 2020. That arrangement had been running for some time and the Respondent had made payments on that basis. The electricity payments were paid with the rent on 7th of each month. They were paid into an account or sometimes paid by the Respondent's partner. Previously, each payment was made as one payment of £390.00. Mr Proud stated that the Respondent had been in rent and water arrears on quite a number of occasions prior to February 2021 but had managed to catch up. The Applicant had allowed the Respondent to do some tree surgery work in lieu of rent because he got so far behind with payment. He stated that no rent or water payments have been paid since 7 February 2021 this year.

Findings-in-Fact

15. The Applicant is the registered proprietor of the Property.

16. In terms of a Private Residential Tenancy agreement between the parties in respect of the Property dated 11 November 2018, the start date of the tenancy was 7 November 2018.
17. Rent is payable by the Respondent to the Applicant at the rate of £380.00 per calendar month, on 7th of each month, in advance.
18. The rent arrears which accrued from 7 February 2021 to 6 August 2021 amounted to £2280.00.
19. The Respondent has not made any payments to the Applicant in respect of rent arrears to 6 August 2021 since that date.
20. The Respondent has an obligation to make payments to the Applicant in respect of water in the sum of £10.00 per month, payable on 7th of each month.
21. The arrears in respect of electricity payments in the period from 7 February to 6 August 2021 were £60.00.
22. The Respondent's tenancy ended on or about 5 October 2021.

Discussion

23. As the tribunal was satisfied that the Respondent owes £2340.00 to the Respondent by way of rent arrears from 7 February to 5 August 2021 in the sum of £2280.00 and water arrears from 7 February to 5 August 2021 in the sum of £60.00, the tribunal made an Order for Payment in the sum of £2340.00.

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.


Ms. Susanne L M Tanner Q.C.
Legal Member/Chair

6 October 2021