



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/19/1895

Re: Property at Flat 1-1, 2 Carnoch Street, Glasgow, G23 5HU (“the Property”)

Parties:

Mr & Mrs McTeague’s 2012 Settlor Interested Liferent Trust (McTeague Trust), 1012 71a Chemin de la Fauvette, Lausanne, Switzerland (“the Applicant”)

Ms Jennifer McComb, Flat 1-1, 2 Carnoch Street, Glasgow, G23 5HU (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that

- **Background**

This was an application brought by the Applicants on 19th June 2019 for a payment order for rent arrears accrued by the Respondent during the period from 15th February to 15th June 2019. The Tenancy began on 15th January 2019 and rent was agreed as £525 per month. The Respondent paid the first month’s rent and the deposit and has not paid any since then.

The case called at a case management discussion on 5th September when both the Applicant’s agent Ms O’Donnell and the Respondent attended.

It was agreed by the Respondent that the rent arrears were outstanding and she explained that she was a full time carer for her son and in receipt of income support she advised the rent arrears were the result of a delay in processing of a housing benefit application and that she had a meeting with the department on 6th September.

The legal member also noted that there was a preliminary issue regarding the consent of the additional trustees in Mr and Mrs McTeague's Liferent trust who is the applicant to becoming additional applicants. The outcome was that the CMD was adjourned to allow the trustees to consent to being additional applicants and to allow the meeting with housing benefit to proceed.

At today's CMD Ms Michelle O'Donnell the branch manager of Glasgow Property Letting and Mr Colin MacMillan the managing director both attended as the Applicant's representatives. Ms McComb attended in person and was not represented.

The Tribunal had received confirmation from Mr Jeremey McTeague one of the Trustees of the Applicant an e-mail consenting to being an applicant, and stating that his sister Ms Karina McTeague would be e-mailing separately. At the CMD the legal member advised that e-mail had not been received. The e-mail confirmed that 2 trustees form a quorum. Ms O' Donnell supplied a copy of an e-mail dated 5th September confirming Ms McTeague's consent and the Tribunal noted that the third trustee Mr Neil Mackenzie had also previously sent in confirmation of his agreement with the application. In those circumstances the Tribunal accepted the Trustees all support the application and agreed it was competently raised.

A rent statement had been lodged with the e-mail of 17th September showing the arrears were now at £4200. Ms O'Donnell however advised that a further rent statement was sent to the tribunal but which had not yet arrived, and she lodged a further copy which showed the Respondent has made payment of two amounts of £20 on 22nd and 30th July bringing the sum now outstanding to £4160.

Ms O'Donnell further advised that they had now received a notice to leave from the Respondent advising she would be leaving on 14th October 2019. The Respondent confirmed that this was the case advising she has been offered a social tenancy which will suit her son who has special needs. She already has the keys and was hoping to move in within the next two weeks. Her new address will be 45 Myreside Gate G32 6 DN and she asked if any correspondence from the Tribunal could be sent there.

The Legal Member advised that any increase in the sum claimed should have been intimated to the other party at least 14 days prior to the CMD and as this has not been done the Tribunal would not consider an order for payment for the current sum outstanding but only for the sum originally claimed. The Respondent then submitted a time to pay application showing an offer of £20 per week. The Applicant's agents confirmed they would be happy to accept that and also that they felt it was best to not delay matters and would accept an order for payment at £20 per week for the sum of £2625. The Respondent was also content to have the matter dealt with today with both parties noting that when the Respondent leaves a final sum due will be calculated and the Respondent will be responsible for paying this. The Applicant's agent confirmed that they would deal with any further arrears by coming to an agreement with the Respondent and that they hoped if she had success in claiming arrears of housing benefit that this might allow her to pay off the debt more quickly. It would also allow the Applicant's to return to the Tribunal for a further order for the further arrears if an agreement on payment was not reached.

- **Findings in Fact**

1. The parties entered into a Private Residential Tenancy where the Respondent rented the Property from the Applicant from 15th January 2019.
2. The rent due in terms of the Tenancy agreement is £525
3. The Sum outstanding at the time the application for payment was raised was £2625.
4. The Sum outstanding today is £4160
5. The Respondent has only paid one full month's rent on 15th January 2019 and subsequently two payments of £20 at the end of July.
6. The Respondent is unemployed, a carer for her son and in receipt of benefits but has not been awarded housing benefit. She is seeking further advice in this regard.
7. The Respondent has offered to pay the outstanding debt at £20 per week and the Applicants have accepted that.

- **Reasons for Decision**

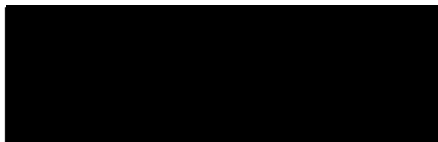
- The debt due is agreed and not disputed.
- The Applicant has not intimated a change in sum claimed giving 14 days' notice of the increase in sum due, so the sum claimed could not be amended today.
- All parties agreed they would prefer the application was dealt with and not postponed to another CMD.
- The Respondent has submitted a time to pay application which both the Applicant and the Tribunal found reasonable. The Tribunal noted the Applicant has sought housing benefit but has been told she should be on universal credit but is actually on income support.
- She is moving into house adapted for her son's disability on 14th October and is giving up this tenancy. She is a carer for her son. The Respondent is going to seek further advice from Citizen's Advice re her entitlement for housing benefit and the Applicants are content to wait to see the outcome of that and to come to a private arrangement for the payment of the further arrears.
- The Tribunal finds that the time to pay offer is reasonable in the circumstances given the Respondent's financial circumstances and the reason for the non-payment to date, and the possibility that if housing benefit is awarded then a lump sum may be able to be made towards the arrears.
- The Tribunal notes there is a deposit of £525 lodged but as the tenancy has not yet ended and there are further arrears it is not appropriate to deduct that from the order made today.
- Given the debt is admitted, the time to pay offer is reasonable and accepted by the Applicant, the Tribunal grants an order for payment of £2625.

- **Decision**

An order for payment of the original sum claimed of rent arrears of £2,625 is made with a time to pay order.

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.



Legal Member/Chair

Date

19th September 2019