



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

Chamber Ref: FTS/HPC/CV/21/1608

Re: Property at 24 Noltmire Road, Ayr, KA8 9ES (“the Property”)

Parties:

Mr Andrew Hogg, 80 Castlehill Road, Ayr, KA7 2JD (“the Applicant”)

Mr Kevin Holmes, 3 Orchard Place, Ayr, KA7 3ER (“the Respondent”)

Tribunal Members:

Josephine Bonnar (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £2485.34 should be granted against the Respondent in favour of the Applicant.

Background

1. By application dated 5 July 2021, the Applicant seeks a payment order in relation to unpaid rent. A copy tenancy agreement and rent statement were lodged in support of the application.
2. A copy of the application was served on the Respondent by Sheriff Officer on 30 August 2021. Both parties were advised that a Case Management Discussion (“CMD”) would take place on 30 September 2021 at 11.30am by telephone conference call and that they were required to participate. They were provided with a telephone number and passcode.
3. The CMD took place at 11.30 on 30 September 2021. The Applicant was represented by Ms Hunter. The Respondent participated.

Case Management Discussion

4. Ms Hunter advised the Legal Member that the sum specified in the application and rent statement is still outstanding and that a payment order is sought for £2485.34. She also advised that the Applicant used the whole tenancy deposit to re-instate the property after the Respondent moved out, as damage had been caused during the tenancy.
5. Mr Holmes advised the Legal Member that he does not dispute that the sum of £2485.34 is owed and accepted that the tenancy deposit had been required for re-instatement costs. He said that he had offered a repayment arrangement for the arrears, but his offer had been rejected. He explained that he and his wife are not working and in receipt of universal credit. They have recently had a new baby. He said that he had been unable to apply for a time to pay direction due to the current demands on his time. However, he is willing to repay the debt by instalments.
6. The Legal Member proceeded to discuss the issue of a time to pay direction with parties. Ms Hunter advised that an offer of £30 per fortnight, which was initially suggested by Mr Holmes, is unacceptable as it would take nearly 4 years to repay the debt. Mr Holmes advised that he might be able to offer £50 per fortnight. However, he was unable to provide full details of his income and outgoings, as his wife usually deals with these matters. The Legal Member noted that no written application for time to pay had been submitted and that it was not possible to assess whether the offer was reasonable or affordable in the absence of information about the Respondent's circumstances. Following further discussion, Mr Holmes advised the Legal Member that he did not oppose the granting of the order without a time to pay direction but reserved the right to make an application for a time to pay order at a later stage.

Findings in Fact

7. The Applicant is the owner and landlord of the property.
8. The Respondent was the tenant of the property in terms of a private residential tenancy dated 5 November 2018. The tenancy ended on 7 September 2020.
9. The Respondent was due to pay rent at the rate of £425 per month.
10. The Respondent owes the sum of £2485.34 in unpaid rent to the Applicant.

Reasons for Decision

11. The application was submitted with a private residential tenancy agreement and a rent statement. In terms of the tenancy agreement, rent was due to be paid at the rate of £425 per month. The Respondent vacated the property on 7 September 2020. The Respondent owed the sum of £2485.34 in unpaid rent at the end of the tenancy. Although the Applicant recovered the tenancy deposit,

this was applied to the cost of re-instating the property, because of damage caused by the Respondent. The Legal Member is satisfied that the Applicant is entitled to a payment order for the sum of £2485.34

12. Although the Respondent advised that he is willing to repay the arrears, he did not complete an application for time to pay and was unable to provide full details of his income and expenditure or confirm if he could make an offer which was sustainable in the long term. Following discussions, he advised that he did not seek a time to pay direction at this stage but might seek a time to pay order later, if he was unable to reach agreement with the Applicant regarding repayment.

13. The Legal member is satisfied that a payment order should be granted.

Decision

14. The Legal Member determines that an order for payment for the sum of £2485.34 should be made.

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.

Josephine Bonnar, Legal Member

30 September 2021

J Bonnar