



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 ('The Procedure Rules) in relation to an application for civil proceedings relative to a Private Residential Tenancy under Rule 111 of the Procedure Rules.

Chamber Ref: FTS/HPC/CV/21/2913

Re: Flat 1, 28 Ferry Road, Rosneath, G84 0RR ("the Property")

Parties:

Fiona Hernandez residing at 28 Camsail Road, Rosneath, G84 0RN ("the Applicant")

Ms Renee Anderson, Lomond Letting Ltd, 68 East Clyde Street, Helensburgh, G84 7PG ('the Applicant's Representative')

Shaun Eadsforth residing at 2, The Lochans, Rosneath, G84 0RA ("the Respondent")

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal")

Tribunal Member: Jacqui Taylor (Legal Member)

Background

1. The Applicant submitted an application to the Tribunal for payment of arrears of rent and late payment charges in the sum of £2193.63 being the sum outstanding following termination of the tenancy of the Property.

2. Documents lodged with the Tribunal.

Documents lodged with the Tribunal by the Applicant were:

- 2.1** A copy of the Tenancy Agreement.
- 2.2** Rent Statement

3. Requirements of Section 111 of the Procedure Rules.

3.1 In connection with the requirements of section 111 the Tribunal determined that the application correctly detailed the requirements of section 111(i), (ii) and (iii) of the Procedure Rules namely:-

- (i) the name and address of the Applicant.
- (ii) the name and address of the Respondent.
- (iii) the reason for making the application.

3.2 The Tribunal also confirmed that the application had been accompanied by the documents specified in **Section 111(b)(i) and (ii) and (iii)** of the Procedure Rules being a copy of the lease and the statement of rent arrears.

4.Outcome

This case called for a conference call Case Management Discussion (CMD) at 10.00am on 11th April 2022.

Ms Renee Anderson, property manager with Lomond Letting Ltd, attended on behalf of the Applicant. The Respondent also attended.

The Respondent had sent the Tribunal administration an email dated 31st March 2022 which disputed the position regarding the deposit.

4.1 Ms Renee Anderson and Shaun Eadsforth confirmed the following facts, which were accepted by the Tribunal:

4.1.1 The Applicant had been the Landlord of the Property Flat 1, 28 Ferry Road, Roseneath, G84 0RR which was registered in the Land Register of Scotland under Title Number DMB47470.

4.1.2 The Respondent had been the Tenant of the Property in terms of the Private Residential Tenancy between the parties dated 18th August 2020.

4.1.3 The Tenancy commenced on 18th August 2020 and terminated on 5th September 2021.

4.1.4 The rent due in terms of the tenancy was £350 per month, payable monthly in advance.

4.1.5 The Respondent had paid a deposit of £525 which had been lodged in a Safe Deposit Scheme.

4.1.6 The Deposit had been returned to the Landlord.

4.2 Ms Renee Anderson advised that Tribunal that the current arrears amounted to £2193.63 and she referred the Tribunal to the rent statement that had been produced. She explained that the deposit had been returned to the Landlord and had been allocated to outstanding rent. The deposit of £525 had been deducted from the outstanding rent detailed in the rent statement.

4.3 Shaun Eadsforth advised that he accepted that the deposit had been returned to the Landlord and had been allocated to the outstanding rent. He also accepted that the outstanding rent due amounted to £2193.63. He confirmed that he had received

the Time to Pay application form but he had not had time to complete the form. He offered to pay £100 per month.

5. Time to Pay Direction

5.1 The Respondent submitted an Application for a Time to Pay Direction to the Tribunal. The application confirmed that the Respondent admitted the claim. He offered to pay £50 or £100 per month. He provided details of his financial situation. The Appellant's Representative confirmed that she is happy to accept the proposal for time to pay.

5.2 Section 1 of The Debtors (Scotland) Act 1987 (as amended by the First-tier Tribunal for Scotland Housing and Property Chamber (Incidental Provisions) Regulations 2019) provides that the Tribunal will make a Time to Pay Direction if satisfied that it is reasonable in the circumstances to do so having regard in particular to:-

1. The nature and reasons for the debt in relation to which the order is sought.
2. Any action taken by the creditor to assist the debtor in paying the debt.
3. The debtor's financial position.
4. The reasonableness of any proposal by the debtor to pay that debt.
5. The reasonableness of any refusal or objection by the creditor to any proposal or offer by the debtor to pay the debt.

Considering that the Respondent has accepted the claim of £2193.63 and the Applicants' Representative has accepted the request made by the Respondent to pay this sum at £50 or £100 per month and the Tribunal consider this to be reasonable for the Respondent to pay the sum due by monthly instalments of £50, the Tribunal determined that the outstanding rent due by the Respondent amounted to £2193.63 and accordingly they issued an Order for Payment in this sum to be paid by monthly payments of £50, the first payment to be made within one month of the date the Respondent receives intimation of the Payment Order by the Tribunal.

6. 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.

Jacqui Taylor

..... Legal Member

27th May 2022