



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

Chamber Ref: FTS/HPC/CV/22/3924

Re: Property at 27/7 Sir Michael Street, Greenock, PA15 1PJ (“the Property”)

Parties:

Mrs Ursula Smith, 23 Ivybank Crescent, Port Glasgow, PA14 5LJ (“the Applicant”)

Mr Mark Bell, Ms Natalie Bell, 15 Cardross Avenue, Port Glasgow, PA14 5SG; 15 Cardross Avenue, Port Glasgow, PA14 5SG (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondents for the sum of £2100 plus interest at the rate of 4 % per anum from the date of the decision.

This hearing was a Case Management Discussion (hereinafter referred to as a “CMD”) which concerned an Application for civil proceedings under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference

1. Attendance and Representation

The Applicant was not present but was represented by Mr Kenneth Caldwell, Patten & Prentice LLP, 2 Ardgowan Square, Greenock, PA16 8PP.

The Second Respondent was not present at the hearing but she had been present at the earlier CMD. The First Respondent Mr Bell was not present. He had been served by Sheriff Officer at Low Moss Prison on 16th Feb 2023

2. Preliminary Matters/Background

- This case previously called before the Tribunal. The Second Respondent had been present. She had confirmed she had accompanied her brother when looking for a property and had agreed to act as guarantor. She confirmed she was accepted as a guarantor despite the fact she has a trust deed. She said that now she is estranged from her brother, the First Respondent. She had been trying to source money advice and help to seek to make payment of the sum in instalments and wanted help to complete a Time to Pay Application. She was waiting to get a call back from the Citizen's Advice Bureau from CAB. She said she could lodge the application within 21 working days.
- The Tribunal noted that it was appropriate to continue to another CMD to allow the Second Respondent and Guarantor to seek advice and to complete a Time to Pay Application within 21 working days. A Direction was issued to the Respondent to complete this application in advance of the next CMD.
- There was no further communication or Time to Pay Application lodged by the Second Respondent.
- The Applicant's representative explained to the Tribunal there had been no communication from the Second Respondent.
- There were no preliminary matters raised.

3. Case Management Discussion

The Applicant's representative set out previously that the relevant tenancy was a PRT for a flat property in Greenock entered into in May 2022. The Second Respondent Ms Bell had been involved in securing same for her brother and had acted as guarantor. The Applicant's representative explained that there had been alongside this application earlier applications lodged for eviction but that the Respondent had voluntarily surrendered the tenancy and these applications were withdrawn.

At the CMD the Applicant's representative set out that in the absence of a Time to Pay application being lodged he now sought on behalf of the Applicant a payment order against both Respondents for the sum of £2100. He was relying on the rent statement lodged and he also sought interest from the date of the decision to payment of 4% per annum. He submitted he had considered

at the last hearing that the Second Respondent had admitted liability. His submission in regards interest sought was that the sum of 4 % accorded with current base rates.

4. Findings in Fact

1. This Application is dated 26th October 2022 and brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicant is the heritable propriety of the property at 27/7 Sir Michael Street, Greenock, PA15 1PJ.
3. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 5th May 2022.
4. The Second Respondent entered into a Guarantor contract for the said tenancy on the same date on 5th May 2022.
5. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
6. Rent payable under this tenancy was £425 per month. The PRT ended in February 2022.
7. As at the rent statement lodged with the Application the rent due by both Respondents to the end of the tenancy to the Applicant was £2100.
8. The Tribunal considered it was appropriate in terms of Regulation 41A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended to order having regard to the overriding objective interest on the sum of £2100 at the rate of four percent from the date of the decision based on the submissions by the Applicant's representative.
9. The Tribunal made a Payment Order against the Respondents for the sum of £2100 plus interest at 4% per anum from the date of decision.

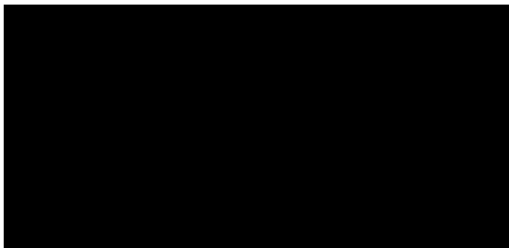
5. Reasons for Decision

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Private Residential Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Second Respondent had appeared on the last occasion and raised no objection to her role of guarantor or the sum sought. She sought time for advice and to lodge a Time to Pay which had not materialised and she was not in attendance. The Respondents had been served by Sheriff Officers and the Second Respondent had attended at the previous hearing. The Tribunal was satisfied that the property had rent arrears rent lawfully due by both Respondents having regard to the Rent Statement detailing this

for the property which had been lodged. In terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £2100 against the Respondents with interest of four percent from the date of the 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

19/04/23

Date