



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/22/2606

Re: Property at 11b Aitchison Street, Airdrie, North Lanarkshire, ML6 0DA (“the Property”)

Parties:

Sanam & Anmol Ltd, 165b Chapel Street, Airdrie, North Lanarkshire, ML6 6LH (“the Applicant”)

Mr Naheem Akhtar, 11b Aitchison Street, Airdrie, North Lanarkshire, ML6 0DA (“the Respondent”)

Tribunal Members:

Jan Todd (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £5,750 be granted in favour of the Applicant from the Respondent.

- **Background**

1. This was the first case management discussion (CMD) in respect of an application by the Applicant dated 28th July 2022 for an order for payment of arrears of rent from the Respondent who was the Tenant in a Tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

- A copy of a Tenancy Agreement dated 2nd June 2021 between the Applicant as Landlord and the Respondent who was the Tenant.

- Statement of rent arrears showing a sum outstanding as at July 2022 of £5750.
 - Copy Notice to Leave dated 29th April 2022
2. By letter dated 1st December 2022 the Applicant's representative lodged a new rent statement showing the sum of £7,475 was now due by the Respondent for rent up to 27th November 2022. The letter was sent by e-mail but was not crossed over to the Respondent by the Tribunal until 13th December 2022 and was then sent to him by letter as no correspondence has been received by the Respondent.
 3. The case management discussion (CMD) proceeded today by way of teleconference.
 4. Service was validly affected on the Respondent by Service by Sheriff Officers who served the papers on the Respondent on 17th November 2022 by letterbox service.

- **The Case Management Discussion**

1. The CMD took place by teleconferencing at 10am on 16th December 2022 and the Legal Member waited until 10.10 to see if the Respondent was going to join the call. The Respondent did not join and was not represented at the CMD. The Respondent has not lodged any written submissions for the Tribunal to consider.
2. The legal member made introductions and explained the purpose and order of proceedings also advising that the Tribunal could make a decision after a CMD which it could after a hearing if satisfied it was appropriate to do so.
3. Ms Duff of Mailers solicitors appeared on behalf of the Applicants. The legal member considered it appropriate to continue with the CMD given that intimation had been given to the Respondent and he has not responded in writing or requested any postponement of today's CMD.
4. Ms Duff advised that her clients were seeking an order for payment in respect of rent arrears today. She advised that they had previously served a notice to leave but had not served the pre-action requirements in terms of Rent Arrears Pre-Action Requirements (Coronavirus) (Scotland) Regulations 2020 and have now done so and may have to apply for an order of eviction depending on any response. She confirmed that there has been no response from the Respondent to the letters or arrears outstanding to date and her client believe he is still living in the property. She advised the last rent paid was in September 2021 and confirmed that the rent is £575 per month, despite the lease mentioning the rent would be £575 every 4 weeks. She advised the landlord has accepted the rent is paid monthly.
5. With regard to the request for an increase Ms Duff advised that the Respondent had not been advised directly that they were seeking an increase in this application, although they had put the increased figure in the pre -action letters. The legal member advised that 14 days' notice has to be given to the other party of any application to increase the sum sought and noted that the letter from Ms Duff advising of the increase in sum sought had only been crossed over to the Respondent by letter dated 13th

December. Given the postal strikes it is not likely that it would have reached him even today.

6. Given the lack of 14 days' notice of any increase sought Ms Duff confirmed she would prefer an order today for the original sum sought of £5,750 rather than continue the application to allow the amendment of the sum sought to be made. She advised she is likely to raise a further application for any remaining rent arrears possibly along with an action for eviction in due course depending on any response to the pre-action letters.

Findings in Fact

1. The parties entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 2nd June 2021.
2. The Rent due in terms of the lease is £575 every 4 weeks but the Landlord has accepted it monthly and it is now due on a monthly basis payable in advance
3. The tenancy is ongoing and the tenant is still living in the Property.
4. The rent outstanding at 28th July 2022, the date of the application is £5,750.

• Reasons for Decision

5. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £575 every 4 weeks for rent. The applicant collected the rent monthly and accepts that the rent of £575 is now due monthly.
6. The Respondent has failed to pay the full rent due. He last paid £575 in September 2021 and has made no payments since. The sum currently outstanding as at 27th November 2022 is £7,475. As the notice of the application to increase the sum sought was not sent to the Respondent by the Applicant directly he has not had 14 days' notice of this amendment and this increase cannot therefore be considered today.
7. The Respondent has been served notice of this application by sheriff officer on 17th November 2022 and has not made any written representations or attended this CMD.
8. The Tribunal accepts the written evidence and verbal statements made by Ms Duff for the Applicants who the Tribunal found clear and credible in her submissions that the rent outstanding as of 28th July 2022 the date of the application is £5750. In the absence of any representations from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed.

• Decision

An order for payment of the sum of £5,750 is granted.

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: 16th December 2022