



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/4078

Re: Property at Flat 11 355 Argyle Street, Glasgow, G2 8LT (“the Property”)

Parties:

Ms Christine Sanderson, Moulin De L'Hoste, 24170 Larzac, France (“the Applicant”)

Miss Bracken Robertson, Flat 11 355 Argyle Street, Glasgow, G2 8LB (“the Respondent”)

Tribunal Members:

Lesley-Anne Mulholland (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a Payment Order in the sum of £4,997.80.

Introduction

1. This is an application under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016 for a Payment Order in respect of rent arrears accrued from November 2022.
2. The respondent is the tenant. She entered into a tenancy agreement on 11 March 2022. The tenancy agreement specifies that £675 is due in respect of rent each calendar month, payable in advance.
3. The applicant asserts that the respondent has accrued rent arrears, at the date of the application, in the sum of £2,370.86.

4. A two-member Case Management Discussion (CMD) took place at 10.00 am on 15 May 2023 by teleconference. The applicant joined the hearing.
5. We were advised by the Clerk that someone using the respondent's registered telephone number attempted to join the discussion but disconnected before any discussion could take place. We waited until 1015am and checked with the administration section to establish that the respondent had not made contact to advise of any difficulty she may have had. We were satisfied that she was properly notified of the hearing. It is helpful to state here that the discussion concluded at around 1130am and the respondent had not made contact by then.
5. The respondent has failed to engage with the application in any way. We took into account the extent of arrears and the length of time over which they had accrued. We decided to continue with the discussion in her absence after satisfying ourselves that the papers had been properly served on her and that she was notified of today's CMD. We had regard to the overriding objective.
6. At the date of the Case Management Discussion, the rent arrears stood at £5,932.42 as notified to HPC Admin on 2 May 2023. The respondent was notified of the application to amend the sum sued for by post on 3 May 2023. As no more than 14-days' notice had been given, and the respondent was not present or represented, we decided to refuse to amend the sum sued for.
7. The applicant had emailed earlier on 11 April 2023 to say that arrears of rent stood at £4,997.80. This was served properly and in time on the respondent. The applicant was informed that we could rely upon the figure of £4,997.80 and not £5,932.42 unless at least 14 days' notice had been given. The applicant was keen to proceed as the matter had been outstanding for some time and she needed to have it resolved as soon as possible because of her own financial difficulties. It was explained that a further application for a Payment Order for any shortfall could be made at a later date. In all of the circumstances, we decided to proceed.
8. The applicant informed us that she had tried to enter negotiations with the respondent in an attempt to have a rent repayment schedule agreed but she had failed to respond in anyway. The applicant had tried to contact her by email, letter and telephone without success. The rent arrears started to accrue from November 2022 and since then the respondent had not made any attempt to make payment of rent or any payment towards her arrears.

9. Some mail had been returned from the property marked 'gone away'. This caused the applicant to ask Mr David Orr to make enquiries. We heard from David Orr. He used to represent the applicant. He stated that he had attended the block of flats where the respondent lives and made enquiries with her neighbours to establish if she was still occupying the property. He spoke to a neighbour however she was understandably reluctant to speak to a strange man about her neighbour. Accordingly, he was not in a position to advise us whether she was there or not.
10. The applicant informed us that the respondent had changed the locks on the door and there was a strong smell of cat litter coming from the flat. The respondent had not notified the applicant that she had vacated the property or handed the keys back. In all of the circumstances we were satisfied that the applicant was still responsible under the terms of her tenancy agreement for the occupation of the property. Accordingly, we were not satisfied that she had vacated the property.
11. The applicant was entitled to the payment of £675 per calendar month. Significant rent arrears had accrued over a significant period of time.
12. As of 15 May 2023, the amount of rent arrears totalled £5,932.42. The respondent had expressed no intention of paying that sum. Her actions in this respect are unreasonable. As before, we proceeded on the basis of £4,997.80 rent arrears as the amount we could consider bearing in mind the 14 days' notice required to amend an application.
13. Having considered all of the information before us, individually and together, we decided to grant an Order for Payment in the sum of £4,997.80.
14. It is helpful to say here that we made an Eviction Order in the application under reference EV/22/4077.

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.

L Mulholland

Date 15 May 2023

Legal Member/Chair