



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/CV/21/0202

Re: Property at 12 Letheron Drive, Wishaw, North Lanarkshire, ML2 7YP (“the Property”)

Parties:

Mr Gerard Keenan, Mrs Nanette Keenan, 5 Buchan Street, Wishaw, North Lanarkshire, ML2 7HG; 5 Buchan Street, Wishaw, ML2 7HG (“the Applicant”)

Mr Marc McAdam, Ms Kelly McCreadie, 73 Girvan Crescent, Airdrie, ML6 8HP (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent of the sum of £4,250 should be made in favour of the Applicant, payable by instalments in terms of the Time to Pay Direction granted.

Background

1. By application dated 28 January 2021, the Applicant sought a payment order in the sum of £5,700 (subsequently reduced to £4,250) against the Respondent in respect of rent arrears accrued in respect of the Property, all in terms of Rule 70 of the Regulations. Supporting documentation was submitted in respect of the application.
2. A Legal Member of the Tribunal with delegated powers from the Chamber President issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations on 5 February 2021. Details in respect of the application and the

Case Management Discussion (“CMD”) fixed were served on the Respondent by Sheriff Officer on 15 February 2021. The last date for written representations by the Respondent was 5 March 2021. Written representations were lodged. Further written representations were also lodged on behalf of the Applicant in response to a Direction issued by the Tribunal on 5 February 2021.

3. A CMD took place on 22 March 2021 at 11.30am by telephone conference call. The Applicant was represented at the CMD by Mr Thomas Dobbin of Select Premier Letting Ltd who had submitted and been dealing with the application on behalf of the Applicant. The Respondent, Mr Marc McAdam joined the CMD and indicated that he was also representing the other Respondent, his wife, Ms Kelly McCreddie. A CMD Note dated 22 March 2021 was issued following that CMD, detailing the discussions which had taken place and the outcome. Reference is made to that CMD Note but, essentially, the Respondent agreed the sum being claimed of £4,250 and wanted an opportunity to complete a Time to Pay Application for consideration by the Applicant and the Tribunal. The outcome was that the CMD was adjourned, pending the time to pay procedure being completed, and possible agreement thereon between the parties, to a further CMD on 10 May 2021 at 10am.

Case Management Discussion

4. The further CMD took place by telephone conference call on 10 May 2021 at 10am. The same persons as had been present at the previous CMD were in attendance again, namely Mr Dobbin, representing the Applicant and Mr McAdam, the Respondent who was also appearing for the other Respondent, his wife.
5. After introductions remarks by the Legal Member, the Respondent indicated initially that he had submitted a Time to Pay Application to the Tribunal Administration but, on double-checking the position, he had been unable to locate his email to the Tribunal. Accordingly, by agreement, the Legal Member adjourned the CMD until 10.45am to allow the Respondent an opportunity to email his Time to Pay Application to the Tribunal and to Mr Dobbin. When the CMD resumed at 10.45am, the Legal Member had still not had sight of the completed Time to Pay application, although Mr Dobbin confirmed that he had received the first part of it. It was noted that the Respondent was offering to make initial payments of £200 per month, increasing to £300 per month as from September 2021. The Legal Member indicated that, in the circumstances, she would proceed to consider the matter initially on the oral submissions of the parties, pending receipt of the paperwork, rather than adjourning again.
6. The Legal Member noted that it would take the Respondent around 15/16 months to pay off the debt at the rates offered. The Respondent indicated that, as per his comments at the previous CMD, the reason he is seeking a lower initial repayment schedule is because his own income is still impacted by Coronavirus restrictions and, although things are now starting to pick-up, he anticipates only having 15-20% of the income he previously had. He is currently not able to offer any more than £200 per month but is fully intending to pay off

this debt as soon as possible, as that is in his own interests to do so. He has been unable to make any payments since the previous CMD but would be able to make the first payment today. He confirmed he would make payments of £200 for the months of May, June, July and August 2021 and would be able to make his first payment of £300 on 1 September 2021. Mr Dobbin asked about what would happen if the Respondent failed to increase the payments to £300 come September 2021. The Legal Member confirmed how a Time to Pay Direction works, namely that if the Respondent were to default and miss two instalment payments that were due, the Applicant can then enforce the debt in the usual way and the whole remaining sum becomes due in the same way as if the Time to Pay Direction had not been granted. Mr Dobbin indicated that, although he had indicated at the first CMD that the Applicant would be looking for at least £300 per month and although he has not yet been able to open the part of the Time to Pay Application detailing the Respondent's income, he was prepared to accept that the Respondents have integrity and would agree to their proposal. Given that parties were in agreement on the matter, the Legal Member indicated that she would grant the order for payment in the sum claimed today, subject to a time to pay direction in the agreed terms.

Findings in Fact

1. The Applicant was the owner and landlord of the Property.
2. The Respondent was the tenant of the Property by virtue of an Assured Tenancy which commenced on 16 November 2017 and ended around 15 November 2020 when the Respondent vacated and moved elsewhere.
3. The rent in terms of the tenancy was £725 per calendar month.
4. When the tenancy ended, the Respondent was in arrears of rent and it is a matter of agreement that the amount due and resting owing by the Respondent is £4,250.
5. The Respondent sought time to pay and agreement was reached between the parties on this matter.

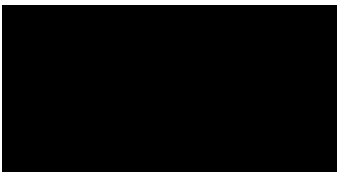
Reasons for Decision

1. The Legal Member was satisfied from the information contained in the application and supporting documentation, together with the oral submissions made on behalf of both parties at the CMDs that the sum of £4,250 in unpaid rent is due and resting owing by the Respondent.
2. The Legal Member was also satisfied that a Time to Pay Direction could properly be made, in terms of the Debtors Scotland Act 1987, as amended.
3. The Legal Member concluded that there being agreement on both matters between the parties, that the matters did not require to go to an evidential

hearing and that an order for payment in that sum, subject to a Time to Pay Direction, could properly be made at the CMD.

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

10 May 2021
Date