



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/19/3809

Re: Property at 3 Williamson Court, Largo Street, Arbroath, DD11 5EB (“the Property”)

Parties:

2M Property Lets, 2M Property Lets, Myreside Farm, Inverkeilor, Arbroath, DD11 5RL (“the Applicant”)

Mr Marc Mearns, 27 Fruithill, Forfar (“the Respondent”)

Tribunal Members:

Mary-Claire Kelly (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to grant an Order for Payment in the sum of four thousand two hundred and sixty-seven pounds and fifty pence (£4267.50).

Background

1. By application dated 26th November 2019 the applicants sought an order for payment in the sum of £4297.50 in respect of rent arrears, cleaning costs and damage to property.
2. The applicants had lodged with the application a timeline of events, bank statements, a rent statement and statement of costs incurred for cleaning and damage to a worktop and windows at the property.
3. A case management discussion (“cmd”) took place on 27th February 2020. Prior to the cmd the respondent lodged an application for a time to pay direction. He admitted liability for the sum sought and offered to repay the outstanding amount at the rate of £30 per month.

4. At the cmd on 27th February 2020 the amount sought was amended to £4267.50. The applicants attended the cmd however the respondent did not. The applicants indicated that they did not wish to accept the offer of £30 per month due to the length of time it would take to repay the debt. It was agreed that the case would be adjourned for the respondent to commence payments of £30 per month and for further negotiations between parties regarding an agreed level of repayment. The case was adjourned to a further cmd on 10th August 2020

Case Management Discussion – 10th August 2020

5. The cmd was held via telephone conference. The applicants attended. The respondent did not attend. The Tribunal was satisfied that the respondent had received notification of the cmd and proceeded in his absence.
6. The applicants advised that they had received no payment from the respondent since the last cmd. The last payment received from the applicant had been in May 2019.
7. Following the previous cmd the applicants had emailed the respondent and provided bank details for him to commence payments. They had indicated to him that they wished to discuss matters with a view to agreeing a repayment schedule. The respondent had not replied.
8. The applicants advised the Tribunal that repayments of £30 per month would take almost 12 years to repay the debt. In their view this was an unacceptable length of time.
9. The applicants advised that they had sought on a number of occasions to reach an arrangement with the respondent however his failure to make any payments following the previous cmd led them to have little confidence that he would adhere to any repayment process. In the circumstances they advised the Tribunal that they opposed the time to pay application and sought an order for the full amount due.

Determination of the time to pay direction

10. In terms of the application for a time to pay direction the respondent admitted the claim. He stated that he had a fortnightly income of £150. His net outgoings were £110 per month. The application stated that he lived alone and had no assets. The respondent stated that he had run up the debt as a previous employer had failed to pay him wages which were due. He offered to repay the debt at the rate of £30 per month.
11. The applicants advised that they had on a number of occasions sought to reach agreement with the respondent regarding the repayment arrangement. Had the respondent made some payments they would have been amenable to reaching an agreement that the debt be paid off by 2025. However, his failure to make any payments or enter into discussions let them to have little confidence that

he would make payment. In the circumstances they sought an Order for the full amount.

12. The Tribunal had regard to the email correspondence and timeline lodged by the applicants which detailed efforts to reach an agreement regarding repayment.

Findings in fact

13. The respondent is liable for £4267.50 in respect of rent arrears and sums due in respect of cleaning and repairs
14. The respondent is unemployed and has no dependents.
15. The respondent's income is £150 per fortnight
16. The respondent has net outgoings of £110 per fortnight
17. The respondent fell into arrears of rent after he lost earnings from his employment
18. The respondent previously defaulted on arrangements to make payment towards the rent and arrears
19. The respondent's offer to repay the debt at the rate of £30 per month would take 11 years and eight months to repay the debt
20. The applicants made efforts to negotiate a repayment arrangement with the respondent on a number of occasions dating back to the period when the arrears first arose
21. The respondent has made no payment to the applicants since May 2019

Reasons for the decision

22. The Tribunal had regard to the terms of section 1 of the Debtors (Scotland) Act 1987 and in particular the matters mentioned in section 1A in determining the time to pay application
23. In the respondent's absence the Tribunal took into account the various documents lodged in advance of the CMD and the representations made by the applicants.
24. Taking into account the above matters and in particular the length of time it would take to repay the debt the Tribunal determined to refuse the application for a time to pay direction and proceeded to make an order for the lump sum sought.

Decision

The Tribunal determined to grant an Order for Payment in the sum of £4267.50.

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.

_Mary-Claire Kelly_____
Legal Member/Chair

_10th August 2020_____
Date