



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/20/1769

Re: Property at 12 Priorwood Road, Newton Mearns, G77 6WR (“the Property”)

Parties:

Mr Andrew Gormley, c/o 4 Carriagehill Drive, Paisley, PA2 6JG (“the Applicant”)

Mr Balal Wali, 12 Priorwood Road, Newton Mearns, G77 6WR (“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 Six Thousand and Fifty Pounds only is made

- **Background**

This was the first case management discussion (CMD) in respect of an application by the Applicant dated 21st August 2020 for an order for payment of further arrears of rent arising from an alleged breach of contract by the Respondent who is the Tenant in a Tenancy of the Property from the Applicant.

The following documents were lodged with the application:-

1. A copy of the Tenancy Agreement dated 30th May 2018 between the Applicant as Landlord and the Respondent as Tenant.
2. Statement of rent arrears showing a sum outstanding as at 1st August 2020 of £10200.

3. The Application was accepted acceptance by a legal member of the Tribunal dated 18th September 2020.
4. Due to the Covid 19 pandemic the case management discussion (CMD) was scheduled to take place by teleconference. Intimation of the CMD was made on the Respondent by service by Sheriff officer on 1st October 2020

- **The Case Management Discussion**

5. The CMD took place by teleconferencing 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.
6. The Applicant did not attend in person but was represented by his letting agent Jack Fulton of Future Alliance Letting Management Ltd.
7. A direction had been sent to the Applicant prior to the CMD seeking clarity of the sum he was claiming in this application as the Application referred to a previous order being made in a previous case to the Tribunal under reference number FTS/HPC/CV/19/3544 where the Applicant was awarded £4150 in respect of rent arrears. The Applicant's agent had confirmed by e-mail that the sum sought was the current rent arrears less the sum previously awarded namely £6050.
8. At the CMD Mr Fulton indicated that neither his agency nor the Applicant have had any correspondence from the respondent since a text message in April confirming he had been furloughed from his work. They have not received any further payments or communication despite the fact the Respondent said he would clear the previous arrears.
9. Mr Fulton confirmed that there would be further rent arrears since 1st August as the Respondent is still living in the Property. After some discussion about his options Mr Fulton confirmed that he would prefer an order today rather than continue the CMD to amend the sum claimed.

Findings in Fact

1. The parties entered into a lease of the Property which commenced on 30th May 2018
2. The Rent due in terms of the lease is £1000 per calendar month payable in advance
3. The Respondent is the tenant and is still living in the Property.
4. The total rent outstanding at the date of the application was £10,200.
5. An order for payment of £4,150 was sought from and granted by the First Tier Tribunal for Scotland (Housing and Property) Tribunal on 27th January 2020.
6. Since 27th January 2020 the Tenant has paid £950 in February 2020 but a further £7000 of rent have been incurred up to and including 1st August 2020. The sum outstanding up to and including 1st August that has not already been subject to an order for payment is £6050.

- **Reasons for Decision**

7. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £1000 per month in advance in rent.

8. The Respondent has failed to pay the full rent due and in particular has not paid anything towards the rental sums since 18th February 2020.
9. The Applicant successfully claimed an order for payment from the Tribunal in case no FTS/HPC/CV/19/3544 and therefore the sum of £4,150 has to be deducted from the full arrears due as of 1st August 2020 leaving a sum due of £6,050.
10. The Applicant is aware that further arrears may accrue and Mr Fulton indicated the Applicant may have to return to the Tribunal for a further claim for payment. Mr Fulton also advised that he and the Applicant may seek legal advice on options for a potential eviction action.
11. The Tribunal accepts the written evidence and verbal statements made by the Applicant's agent, who the Tribunal found clear and credible in his evidence that the rent outstanding and due by the Respondent amounts to is £6,050 after taking account of the previous claim. This is less than the sum that was claimed in the application and that has been intimated on the Respondent. In the absence of any response from the Respondent the Tribunal finds it fair and appropriate to make an order for payment for sum claimed of £6,050 in respect of rent arrears accrued up to 1st August 2020 inclusive.
12. 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 £6050 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.

Jan Todd

Legal Member/Chair

2nd November 2020
Date