



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under Section 16 of the Housing (Scotland)
Act 2014**

Chamber Ref: FTS/HPC/CV/20/2094

Re: Property at 20 Learmouth Crescent, Edinburgh, EH4 1DE (“the Property”)

Parties:

**York & District Investment Co., 137 Scalby Road, Scarborough, North
Yorkshire (“the Applicant”)**

**Dr Timothy Willis, 14 Silverknowes Avenue, Edinburgh, EH4 5HU (“the
Respondent”)**

Tribunal Members:

Melanie Barbour (Legal Member)

Decision

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the
Tribunal”) determined that**

Background

1. An application was made to 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 2017 Rules”) seeking an order for payment of in relation to rent arrears.
2. The application contained :-
 - A copy of the tenancy agreement,
 - Rent statement
 - Bank statement; and
 - Notice to leave

3. Before the application called today for a case management discussion the Respondent had admitted the debt and submitted a time to pay application asking that he make a lump sum payment within in 6 months; advising that his partner was selling her flat and the proceeds from that sale would be used towards the rent arrears. The Applicant opposed the granting the order on those terms, considering that 6 months was too long a time to wait for payment from sale proceeds.
4. The Applicant also sought to amend the sum sued for additional rent owing up to the date when the respondent left the property. Thereafter the deposit for the property was paid to the applicants. The final sum sought was £4578.70. The respondent confirmed that he accepted that this revised sum was due by him for unpaid rent arrears.
5. At today's case management discussion, the Applicant's Agent, Ms Drummond from White Lettings Ltd attended. The Respondent was also in attendance.

Discussion

6. The applicant's agent confirmed that she was seeking an order for payment today for the sum of £4578.70. She confirmed that there had been no further payments towards the rent arrears. The respondent confirmed that this sum was due.
7. The applicant's agent explained that they opposed the time to pay direction application, because the house was on the market; and the Edinburgh market was pretty good. They considered that 6 months was too long to have to wait for payment of the lump sum. They did not know if the respondent had other debtors and therefore considered that the Applicant would be prejudiced by having to wait for payment for 6 months. She advised that she was unaware of the respondent's assets or income.
8. The respondent advised that the property market for houses at the lower end of the market was not so buoyant due to COVID-19, with lower end buyers being more likely to have been affected economically by the COVID-19 pandemic. He advised that there had been work done to the property's roof before it was put on the market and this has delayed the marketing progressing. It was now on the market, there had been 4/5 viewers but no notes of interest. He was concerned about making a legal undertaking that he would pay the rent arrears back within 3 months and then not be able to adhere to that time limit. He advised that if the property sold more quickly, then the applicant would be paid at that time, and t not have to wait for 6 months. He advised that the free proceeds would be used to pay the applicant. He advised that the issue of rent arrears had caused him enormous stress and anxiety.
9. The tribunal member noted that the tenancy had commenced in 2010 and he asked the Applicant is there was any history of non-payment of rent. The applicant's agent advised that there was no history of non-payment until these arrears had arisen. She confirmed that the applicant had sympathy with the respondent's circumstances but considered that 6 months was too long for the

time to pay; she advised that even 4 months would be acceptable to the applicant.

Findings in Fact

10. The Tribunal found the following facts to be established:
11. A tenancy agreement was entered into between the Applicant and the Respondent for the Property and existed between the parties. It was entered into on 21 July 2010. It had ended on 23 October 2020
12. Rent was £925 was payable per calendar month in advance.
13. Arrears as of 23 October 2020 were £4578.70

Reasons for Decision

14. Section 16 of the Housing (Scotland) Act 2014 provides that the First Tier Tribunal has jurisdiction in relation to actions arising from a number of tenancies, including those arising under an assured tenancy within the meaning of section 12 of the Housing (Scotland) Act 1988. As this tenancy is an assured tenancy, I am content that I have jurisdiction to deal with this case.
15. The Respondent did not oppose the order being granted and the dispute was limited to the question of the time to pay application.
16. I consider that a time to pay order should be granted providing the respondent with a period of 5 months in which to obtain the funds to repay the rent arrears. I consider that this time period provides the respondent's partner with time to market her flat, sell it and settle the sale. I am conscious that the Christmas period is approaching, and this may lead to some delay in a sale proceeding. I also note that the applicant was prepared to accept a four-month period in a time to pay direction. I consider that 5 months allows for the Christmas period to be taken into account and seems a reasonable time period.
17. I also note that the Respondent indicated that he has no assets and income due to the COVID-19 pandemic. He is therefore unable to make any other offer to repay the rent arrears at this stage. The property that is being sold is his partner's property, and I did consider that she could not be forced to repay the arrears due by the respondent, however I took into account the fact that the respondent did not dispute the arrears, had a long history of repayment of rent for the property, and had made proposed a way of repaying the arrears. The applicant did not dispute this method of payment only the period of it.
18. In the event for whatever reason the time to pay is not complied with, then the Applicant will be able to seek to enforce the terms of the order by the usual means of diligence. However, at the present time taking into the personal and

professional circumstances set out by the respondent in his time to pay application, I consider that he is entitled to a period of 5 months in which to repay the arrears as proposed by him.

19. On the basis of the evidence submitted and having regard to all papers submitted including the application, I consider that I should make an order for the sum sought and I should also grant a time to pay application providing a period of 5 months in which to repay all of the arrears in one lump sum payment.

Decision

20. I grant an order in favour of the Applicant for the Sum of FOUR THOUSAND FIVE HUNDRED AND SEVENTY-EIGHT POUNDS AND SEVENTY PENCE (£4,578.70) STERLING against the Respondent with a time to pay direction.

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.

Melanie Barbour

26/11/2020

Legal Member/Chair

Date