



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

Chamber Ref: FTS/HPC/CV/21/0544

Re: Property at 12/1 Northfield Avenue, Edinburgh, EH8 7PR (“the Property”)

Parties:

Mr Scott Gray, 18 Southfield Farm Grove, Edinburgh, EH15 1SR (“the Applicant”)

Mr Andrew Greig & Ms Jacqueline Gray, 12/1 Northfield Avenue, Edinburgh, EH8 7PR; 12/1/ Northfield Avenue, Edinburgh, EH8 7PR (“the Respondents”)

Tribunal Member:

David Preston (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent in the sum of FIVE THOUSAND NINE HUNDRED AND SEVENTY FIVE POUNDS (£5975).

Background

1. Following the CMD on 27 April 2021, a Note was issued to the parties in terms of which the CMD was continued to a further telephone CMD on 19 May 2021 to enable the first named respondent to complete a time to Pay Direction application for consideration by the applicant and the tribunal.
2. On 18 May 2021 the adjourned CMD was convened by telephone in accordance with the provisions for dealing with business during the Covid 19 pandemic. Present by telephone at the CMD were: the applicant who represented himself; and Mr Andrew Greig who represented the respondents. The first named respondent told the tribunal that the second named respondent was unable to attend as she was working.

3. The tribunal had before it: Application dated 9 March 2021; Private Residential Tenancy Agreement dated 6 February 2018; Rent Statement covering the period 5 February 2018 to 5 March 2021; email from respondent dated 8 April 2021; and CMD Note dated 27 April 2021.

Discussion

4. The tribunal noted that no Time to Pay Direction application had been received from the respondents.
5. The first named respondent told the tribunal that the job which his daughter had obtained and on the basis of which he had hoped to make proposals for payment had fallen through after a month as the company had ceased trading. He had therefore decided that it was not worth completing the Time to Pay Direction application. He said that he had applied for benefit to cover the sum sought in the application, but the applicant had received no communication in regard to such an application.
6. The applicant confirmed that he had not heard anything from the respondents or from anyone else regarding the arrears of rent.

Reasons for Decision

7. Rule 17 of the Regulations states that the tribunal may do anything at a CMD which it may do at a hearing, including making a decision. The tribunal decided that, on the basis of the information before it, it was in a position to make a decision without further enquiry.
8. The tribunal was satisfied from the evidence and admissions provided in the written submissions and by the parties at the two CMDs that the parties had entered into a Private Residential Tenancy Agreement on 6 February 2018 at a rent of £850 per month. The tribunal was also satisfied that the arrears of rent had accrued to a total of £6800 but that the applicant had received the sum of £825 as a Universal Credit payment towards the arrears, leaving a balance due of £5975 as detailed in the CMD Note of 27 April 2021.
9. Despite an undertaking by the first named respondent, he had failed to submit a Time to Pay Direction application. The tribunal was therefore unable to consider making a Time to Pay Direction. The first named respondent said that his wife was at work and was unable to attend the hearing but the tribunal neither had any information regarding her income, nor any benefits being received by the respondents.

10. The respondents had been provided with a Time to Pay application along with the case papers served on them on 15 March 2021 which they failed to complete and return. A further opportunity was provided to them at the CMD on 27 April 2021 to submit an application which they failed to take. The tribunal recognises that the respondent's financial situation may be flexible but had been advised that the second named respondent has been in employment throughout the pandemic and yet no information had been provided regarding her income at the very least.
11. The first named respondent admitted that the arrears of rent remained outstanding and made no proposals with regard to payment apart from vague suggestions that the applicant would be paid.
12. The applicant is entitled to an Order for payment without further unnecessary delay.

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.

D.P.

18 May 2021