



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) arising from a tenancy under Section 1 of the Private Housing (Tenancies)Scotland) Act 2016.**

**Chamber Ref: FTS/HPC/CV/21/0930**

**Re: Property at 5 Edmond Terrace, Glasgow, G63 0ER (“the Property”)**

**Parties:**

**Mr Stewart Cameron, 46 Main Street, Drymen, Glasgow (“the Applicant”)**

**Ms Marjorie Berdon, 5 Edmond Terrace, Glasgow, G63 0ER (“the Respondent”)**

**Tribunal Members:**

**Susan Christie (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order be made for payment by the Respondent to the Applicant of £1006.**

**Background**

1. The Application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) was made, accepted by the Tribunal on 23 April 2021.
2. The Application seeks a payment Order for unpaid rent due under a Private Residential Tenancy.
3. An Order had been made under reference CV/20/2466 involving the same parties for past rent arrears.
4. A written amendment of the Application to increase the sum sought to £1006 was received with accompanying documentation around 31 May 2021 and re-affirmed on 6 July 2021.
5. Written representations were submitted by the Respondent in the form of a time to pay application.
6. The Case Management Discussion (CMD) assigned for 9 June 2021 was postponed by the tribunal to allow for the outcome of the rent deposit

application to be known and to allow the Respondent to identify a Representative should she wish representation. The time to pay application was to be crossed over to the Applicant.

### **The Direction of 2 June 2021**

The Applicant was required to provide:

- 1) An up to date rent statement detailing the rent charges and the payments made, with the balance owed and claimed in this application.
- 2) The date the tenancy ended.
- 3) Written documentation of the outcome of the application for payment of the rent deposit, showing the amounts paid and to whom (whether the payments are to the Applicant or Respondent).

The Respondent was required to provide:

- 1) A note of the name and contact details of her Representative, should she wish to have representation at the CMD.
- 2) The date the tenancy ended.
- 3) Written clarification of the total sum the Respondent accepts as due by way of unpaid rent to the end date of the tenancy.
- 4) Copies of all documents or communications she wishes to rely on, in addition if she wishes any other matters to be considered regarding her financial position.

### **The Case Management Discussion today-conference call**

7. The Applicant represented himself. The Respondent participated and was represented by Mr Hanington who is a Member Defence Coordinator from an organisation, 'Living Rent'.
8. Prior to discussing the time to pay application that was submitted, it was stated that the Respondent disputed the amount sought. The Respondent had only accepted rent was due up to 16 May 2021, not 17 May 2021. This issue was discussed at length with the Parties. The Respondent contended that an agreement had been reached whereby the Respondent quit the Property on 16 May and that the Applicant was told that he was not allowed to enter it until 17 May 2021. It was not accepted by the Applicant that such an agreement had been reached. The Applicant had been told that was what the Respondent was doing. He considered the end date to be 17 May 2021. Mr Hanington clarified that he had sent an e mail on behalf of the Respondent on 14 May 2021 indicating that his client was leaving on 16 May and that the landlord should not approach the Property until 17 May 2021. There was a dispute between the Parties as to whether the lock had been changed back to the original and whether the keys had been returned.
9. A discussion then took place around the recognised ways to end a tenancy. In this case an eviction order had been granted but not yet enforced and no ejection date had been fixed. The recognised 28 day notice period had not been given by the tenant. There was a dispute as to whether it was instead

- ended on 16 or 17 May 2021 by agreement. The Respondent decided to agree to 17 May 2021 as the end date. This meant an Order could be granted today without assigning a further hearing to determine the end date.
10. The rent due, as per the Private Residential Tenancy Agreement is £650 per calendar month payable in advance on the last day of the preceding month. The tenancy commenced on 10 April 2020. The figure due in this application was agreed at £1006. This covered the rent owed from April and the apportioned rent of £356 for May 2021.
  11. The time to pay application was then discussed with the Parties, again in detail. Objection had been made by the Applicant who had produced documentation to show that the income and outgoings of the Respondent were different from the previous application in CV/20/2466. The differences in the figures were discussed and the Respondent stated that her income had reduced as she was now in temporary accommodation, and she was no longer in receipt of the housing allowance part of her benefits. She stated she did not have a partner who lived with her and that her previous partner was not supporting their children. She explained that in the amount set out for Broadband that this also included subscriptions for Disney and such like for her children and the monthly licence fee. She was now also to pay £50 per month for the temporary accommodation but received no help with that. She still paid the Applicant £100 under the previous Order's time to pay. She was seeking to reduce that figure, so she only paid £50 per month in total to the Applicant. She intended to challenge the claim the landlord had made for the full deposit for repairs and cleaning etc. and seek money back from the deposit of £950. She still had time to do that, and she was going to. She also would challenge any additional sums sought by the landlord for further sums around the end of tenancy claim. She did not pay towards her other debts with third parties as she could not. She sought a time to pay application for £5 per month.
  12. The Respondent's Representative stated that an application had been made to Turning Point for a trust fund payment which might clear the arrears if the application was accepted. He was not in a position to tell the tribunal when the decision was likely to be received or whether it would be successful or the amount that might be paid. He stated that there might be room to seek a payment from a government grant fund that had just been announced. He stated that the offer of £5 per month had been determined as an acceptable figure by the organisation Step Change. A continuation of the CMD to ascertain the outcome of those other matters was canvassed but the Respondent did not wish the matter to be continued. He referred to some of the matters arising from the income and outgoings, and around travel expenses but needed to involve the Respondent sometimes to answer. He alluded to there being other issues between the Parties that had arisen. Those issues were not directly relevant to the current application.
  13. The Applicant observed that the outcome of the other matters might result in money being available sooner to pay him the unpaid rent. If a decision was to be made today, he did not accept the offer made.
  14. Mr Hanington, when asked if he had approached the Applicant to seek to agree a global figure for payment, stated he had not. He was aware that such an approach could be made out with the tribunal setting.

15. I adjourned for a short time to consider the submissions and make my decision. On returning the Parties, were advised of the decision and the final steps needed to issue the paperwork. The Respondents' Representative began making adverse comment regarding the tribunal's decision, at which time the call was terminated by the clerk.

### **Findings in Fact**

- I. A Private Residential Tenancy (PRT) was entered into between the Parties with a start date of 10 April 2020.
- II. A previous Order for payment of rent arrears not included in this application was made in CV/20/2466 and a time to pay order was made of £100 per month.
- III. The contractual rent is £650 per calendar month, payable in advance.
- IV. The tenancy ended on 17 May 2021.
- V. The unpaid rent due for April and up to 17 May 2021 is agreed at £1006.
- VI. A payment Order is granted for £1006.

### **Reasons for Decision & Decision**

It is not in dispute that the Parties entered into a tenancy agreement and that rent arrears are due in this application of £1006 apportioned up to the agreed end date of 17 May 2021.

The tribunal is aware of this being the third, (possibly fourth) application made arising out of the tenancy between the Parties. One of those past applications was CV/20/2466 and an Order for payment of rent arrears was made in that with a time to pay direction of £100 per month. The Respondent sought in her submission to have that set aside. It was explained that could not be done in this application and it was not a matter before the tribunal today. Separate contact would need to be made with the tribunal office. It was noted that generally she sought to reduce her payments to the Respondent to a figure of £50 per month. She was in receipt of financial advice and assistance through her representatives.

I rejected the time to pay application made at £5 per month as I did not consider it was reasonable in all the circumstances to grant it. The time to pay application as made did not indicate the Respondent had any surplus income with which to pay the Applicant, in fact it came out as a deficit. The Applicant had produced documentation indicating he had sent a letter to the Respondent with details of contacts that may assist tenants in financial difficulties (dated 5 November 2020). The current proposal meant that it would take around 201 months to repay the debt. I also had regard to the fact that other sources of funds with which to pay the debt (in full or in part) sooner were actively being sought.

## 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.



Susan Christie

14 July 2021

Legal Member