



**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/21/1068

Re: Property at 24 Monkland View, Bargeddie, G69 7RX (“the Property”)

Parties:

Mr Alexander Smillie, Touchstone, Burnside, Pitlessie, Fife, KY15 7SX (“the Applicant”)

Mr John Visser, 24 Monkland View, Bargeddie, G69 7RX (“the Respondent”)

Tribunal Members:

Graham Harding (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 £4900.00.

Background

1. By application dated 6 May 2021 the Applicant’s representatives Penny Lane Homes in Johnstone Ltd applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representative provided the Tribunal with a copy of the tenancy agreement, a rent statement and rent demand in support of the application.
2. By Notice of Acceptance dated 14 May 2021 a legal member of the Tribunal with delegated powers accepted the application and a case management discussion was assigned.
3. Intimation of the case management discussion was sent to the Applicant’s representatives by post and was served on the Respondent by Sheriff Officers on 24 May 2021.

4. By email dated 17 June 2021 the Applicant's representative sought to amend the sum claimed to £4900.00.

The Case Management Discussion

5. A case management discussion ("CMD") was held by teleconference on 28 June 2021. The Applicant did not attend but was represented by Mrs Kellie Deans from the Applicant's representatives. The Respondent attended personally.
6. At the commencement of the CMD the Tribunal asked the Respondent if he had a query as the Tribunal clerk had indicated that he had disputed receiving some correspondence. The Respondent said he had only received the letter of 16 June 2021 but not any previous correspondence. The Tribunal referred the Respondent to the Sheriff Officer's report of 24 May 2021 which confirmed that a full set of papers had been deposited at the property that day and a further set sent to the Respondent by 1st class post. The Respondent accepted that given the terms of the report he must have had the papers sent to him but it was likely he had thrown them out without looking at them.
7. The Tribunal queried with the Respondent if he accepted that he was due rent for the property. The Respondent said that he did not dispute the calculations produced by the Applicant's representatives. He said they were very thorough and if that is what they said was the amount due then that is what it was. He said he did not keep a record of payments made.
8. The Tribunal explained to the Applicant's representative that as the application to amend had been submitted on 17 June it was not timeous as in terms of the Tribunal's rules any application to amend had to be submitted no later than 14 days prior to a CMD or hearing. However the Respondent confirmed that he had no objection to the sum claimed being amended to £4900.00 and therefore the Tribunal allowed the amendment.
9. The Tribunal asked the Respondent if he was in a position to clear the sum claimed or if he could clear it within a reasonable period of time. The Respondent explained that he had a small annuity of £10000.00 with Scottish Widows and he had approached them to see if it could be paid out as a lump sum to him but he had been advised it could not. He said he had no other funds available to pay off the debt and that he was semi-retired. He said if he had the money to pay he would pay. He said when he did have some work he made payments to try to reduce the debt.
10. For the Applicant Mrs Deans asked the Tribunal to grant an order for payment in the amended sum of £4900.00 that being the rent due as at 25 June 2021.

Findings in Fact

11. The parties entered into a Short Assured tenancy that commenced on 25 April 2014 at a rent of £375.00 per calendar month.
12. The rent outstanding and due by the Respondent to the Applicant to 24 June 2021 amounted to £4900.00.

Reasons for Decision

13. The Tribunal was satisfied from the documents provided and the oral submissions of the parties that the Respondent entered into a Short Assured Tenancy agreement that commenced on 25 April 2014 for a period of 6 months at a rent of £375.00 per month and has continued thereafter on a month to month basis.
14. The Tribunal was also satisfied from the documents submitted and the oral representations that the Respondent has over a long period accrued rent arrears and that the amount due as at 24 June 2021 was £4900.00.
15. Although the Applicant's representatives application to increase the sum claimed was not timeous the Respondent confirmed he had no objection to the amendment being allowed and therefore the Tribunal was prepared to allow the sum claimed to be increased to £4900.00.
16. Given that the Respondent accepted that the sum claimed was due and that he was not in a position to make payment the Tribunal was satisfied it had sufficient information before it to make an order without a hearing and that the order should be granted.

Decision

17. The Tribunal finds the Applicant entitled to an order for payment by the Respondent in the sum of £4900.00.

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.

Graham Harding

Legal Member/Chair

28 June 2021

Date