



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/1903

Re: Property at Flat 10, Wilson Court, 15 Wilson Street, Hamilton, ML3 0NH (“the Property”)

Parties:

Ms Yuixu Li, C/O Jewel Homes Ltd, Atrium Business Centre, North Caldeen Road, Coatbridge, ML5 4EF (“the Applicant”)

Ms Heather McLafferty, Flat 10, Wilson Court, 15 Wilson Street, Hamilton, ML3 0NH (“the Respondent”)

Tribunal Members:

Andrew McLaughlin (Legal Member) and Melanie Booth (Ordinary Member)

Background

This Application is in respect of a Payment Order in respect of rent arrears said to be lawfully due by the Respondent to the Applicant. The Application is accompanied by a copy of the tenancy and a rent statement.

The Case Management Discussion

The Application called for a Case Management Discussion (CMD) by conference call at 10 am on 1 October 2021. The Applicant was represented by Mr Stevenson of Clarity Simplicity Solicitors. The Respondent was personally present on the call.

The Tribunal invited each party to raise any preliminary matters. Both parties were happy to proceed with CMD. The Application called alongside the related Application

with reference FTS/HPC/EV/21/1901 which was in respect of an Application for an Eviction Order.

The Tribunal carefully considered all the documentation submitted and heard from Mr Stevenson who invited the Tribunal to grant the Application.

The Tribunal asked the Respondent to state her position. She confirmed that she did not want the Tribunal to make the Payment Order,

The Respondent accepted that the rent arrears which the Applicant was founding upon in the Application were lawfully due and the Respondent did not dispute any of the figures put forward by the Applicant.

The Tribunal carefully questioned the Respondent in order to consider the reasonableness or otherwise of granting the Application. The Respondent's position appeared to be that she was bad with money and had got herself into a financial mess. The Respondent confirmed that she lived alone with no dependents and worked full time as a team leader in customer services.

Despite close questioning, the Tribunal was left with the impression that it was not getting the full story from the Respondent about what her financial difficulties were and what the reasons were for falling into rent arrears. The Respondent's position was that her partner was now going to pay off her rent arrears for her and deal with these issues going forward as she "*couldn't deal with it*" herself.

Regrettably, nothing the Respondent said gave the Tribunal any comfort that there was a credible plan to settle the arrears or even to pay the rent going forward. The Respondent had also not paid any rent at all for the last few months seemingly without any explanation as to why not.

The Respondent's vague answers about her finances gave the Tribunal little to work with in respect of trying to understand her position.

After carefully hearing from parties, the Tribunal made the following findings in fact.

Findings in Fact

- I. *The parties entered into a tenancy in respect of the Property that commenced on 31 May 2019;*
- II. *The Applicant was the landlord and the Respondent was the tenant under that tenancy;*
- III. *The contractual monthly rent due was £350.00;*

- IV. *The Respondent quickly fell into rent arrears and had more or less continually been in rent arrears throughout the entire tenancy;*
- V. *The Respondent is not forthcoming about how she fell into these rent arrears or about her financial situation.*
- VI. *The Applicant had made efforts to direct the Respondent towards sources of advice and financial assistance, but the Respondent had made no effort to engage with such services or support;*
- VII. *The Applicant has complied with the necessary pre-action requirements;*
- VIII. *The sum claimed in the Application of £2,419.00 is lawfully due as rent by the Respondent to the Applicant but remains unpaid.*

Reasons for Decision

Having made the above findings in fact, the Tribunal granted the Application and made a Payment Order in sum sought of £2,419.00. Interest will run on that sum at the rate of three per cent from today's date until payment.

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.

Andrew McLaughlin

Legal Member/Chair

1 October 2021

Date