



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 and Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”)

Chamber Ref: FTS/HPC/CV/21/2622

Re: Property at 24/5 Woodburn Terrace, Edinburgh, EH10 4SS (“the Property”)

Parties:

Mr Owen Hayward, Glenfari, Park Crescent, Llanfairfechan, Conwy, LL33 0AU (“the Applicant”)

Ms Margarita Herries, 24/5 Woodburn Terrace, Edinburgh, EH10 4SS (“the Respondent”)

Tribunal Member:

Martin McAllister (Legal Member) (“the tribunal”)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order be made against the Respondent for payment of the sum of TWENTY ONE THOUSAND NINE HUNDRED POUNDS (£21,900) to the Applicant.

Background

1. This was a Case Management Discussion (CMD) in respect of an application for civil proceedings in relation to a private residential tenancy.
2. The Applicant was seeking an order for payment of money in respect of rent arrears. The application states that the level of arrears and the sum sought is £14,350.
3. By Decision dated 1st November 2021, a Legal Member of the First-tier Tribunal having delegated power for the purpose, referred the application under rule 9 of the Rules to a case management discussion.

4. A previous CMD had been held on 2nd February where the application had been dismissed in terms of Rule 27(2) (b) of the Rules. Following further procedure, the decision to dismiss was reviewed and the decision to dismiss was recalled.

Case Management Discussion

5. On 30th June 2022, a CMD was convened by telephone. The Applicant was present and there was no appearance by the Respondent. The tribunal had a certificate of service and noted that service on the Respondent had been made by recorded delivery mail on 18TH May 2022 when it had been signed for by "M H."
6. The Legal Member explained the purpose of a case management discussion.
7. Mr Hayward referred to the most recent rent statement which he had submitted to the Tribunal along with a copy of an email which he had sent to the Respondent which had the rent statement as an attachment. He said that he was seeking to amend his application to reflect the current level of rent arrears which was £21,900 and which was shown in the rent statement which had been sent to the Tribunal and the Respondent.
8. The tribunal agreed to allow the amendment and was satisfied that the Respondent had adequate notice of the sum now being sought by the Applicant.
9. Mr Hayward said that the Property is his only rental property. He said that the Respondent had been adversely affected by the Covid situation. He said that she was a tour guide and that he understood the reasons for her financial difficulties. He said that he understood that she also relied on Russian tourism and that there were obviously difficulties in that regard because of the position with Ukraine.
10. Mr Hayward said that the last payment which he had received in respect of rent had been in October 2020 and that this had been for £500. He referred to the rent statement which showed payments of less than the full rent for the months of April 2020 to October 2020 and then no payments from then.
11. Mr Hayward said that he had tried to support the Respondent on an informal basis and had then made use of the Scottish Government template letters which contained signposts for the Respondent directing her to resources and organisations which could assist her.
12. Mr Hayward said that he served the Respondent with a Notice to Leave and that he has submitted an eviction application to the Tribunal.
13. Mr Hayward referred to the copy emails which he had lodged and suggested that this showed that he had tried to support the Respondent and assist her. He said that he was suffering financially because he had expenses relating to the Property and relied on the rent as part of his income.

Findings in Fact

- 1. The parties entered into a private residential tenancy agreement in respect of the Property.**
- 2. The tenancy agreement was dated 10th July 2019.**
- 3. The tenancy commenced on 15th July 2019.**
- 4. The monthly rent due under the tenancy agreement is £950.**
- 5. As at 30th June 2022, the Respondent had rent arrears of £21,900**

Documents before Tribunal

1. Private Residential Tenancy Agreement dated 10th July 2019.
2. Rent statement from April 2020 to June 2022.
3. Copy of Applicant's Lloyds Bank statements.
4. Email communications from Applicant to Respondent.

Reasons

14. The tribunal accepted the documentary evidence before it in relation to the existence of the tenancy and the arrears of rent. It accepted what Mr Hayward had stated to be credible.
15. The Tribunal saw no reason to continue the matter to a Hearing and it found, on the balance of probabilities, that the sum of £21,900 was due to the Applicant by the Respondent and that it was appropriate to make an order for payment in that amount.

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.

Martin McAllister

Martin J. McAllister
Legal Member
30th June 2022