

Housing and Property Chamber
First-tier Tribunal for Scotland



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/21/2680

Re: Property at 3 Hermitage Park Lea, Edinburgh, EH6 8DY (“the Property”)

Parties:

Mr Stuart Nicol, 5 Duddingston View, Edinburgh, Midlothian, EH15 3LX (“the Applicant”)

Mr Colin Steele, Mrs Dawn Steele, 10 Fraser Grove, Edinburgh, Midlothian, EH5 2AL (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member)

Decision (in absence of the First Named Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the order for payment is granted to the amount of £813.50 (EIGHT HUNDRED AND THIRTEEN POUNDS AND FIFTY PENCE) by instalments of £50 (FIFTY) per month from 1st February 2022 under at Time To Pay Direction.

Background

1. This is an application in terms of Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment of the sum of £813.50 in terms of s16 of the Housing (Scotland) Act 2014.
2. On 25th November 2022, all parties were written to with the date for the Case Management Discussion (“CMD”) of 11th January 2022 at 11.30am by teleconferencing. The letter also requested all written representations be submitted by 16th December 2021.

3. On 26th November 2021, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent by letterbox service and first class post. This was evidenced by Certificate of Citation dated 26th November 2021.
4. On 15th December 2021, Mrs Steele submitted a Time To Pay Application offering to pay the outstanding amount at £50 per month.
5. On 22nd December 2021, Mr Napier emailed the Housing and Property Chamber confirming that this was acceptable.

Case Management Discussion

6. A CMD was held on 11th January 2022 at 11.30am by teleconferencing. The Applicant was represented by Mr Fraser Napier, solicitor, Jackson Boyd LLP. The Applicant was also present. The Second Named Respondent, Mrs Dawn Steele, was present. The First Named Respondent, Mr Colin Steele, was not present. The Tribunal proceeded in terms of Rule 29 of the Rules.
7. The Tribunal noted the Time To Pay Application ("TTPA"). The Tribunal had been minded to continue to the CMD to allow Mr Steele to raise any issues of reasonableness. As Mr Steele did not attend or make any representations the Tribunal considered that he had the opportunity to make any representations if he wished to do so and proceeded to consider the TTPA.
8. Mr Napier confirmed that the Applicant still accepts the TTPA offer.
9. Mrs Steele accepted the debt. She now just wants to have it paid. She is willing to pay more in any month that she can afford to do so. It was made clear to Mrs Steele that her agreement is £50 per month so if she pays more one month she cannot pay less the next month. Mrs Steele is clear on that point. Mrs Steele is paid 4 weekly. She has started a new job so her first full pay will be on 10th February 2022. She will make her first payment on that day then monthly thereafter. She understands that the debt is jointly and severally liable by both her and Mr Steele. She does not know his whereabouts. She is aware that if she defaults on the instalments that Mr Nicol will be entitled to have the full outstanding amount paid to him.
10. Mrs Steele noted that she was very aggrieved at Your Move letting agency. She did not consider that they had dealt well with the eviction and the process of recovering the outstanding debt. She was clear that she did not consider that this was a reflection upon the Applicant, Mr Nicol.

Findings in Fact

11. The parties entered into a Short Assured Tenancy on 16th April 2016 for a 6 month period until 25th October 2016 and on a month to month basis thereafter. The rent payments of £750 were due by the 26th day of each month.

12. The Housing and Property Chamber received an Application dated 29th October 2021.
13. The Respondents have persistently not made rent payments. There have been more than 3 missed payments.
14. There are no outstanding Housing Benefit issues.
15. The arrears due to the Applicant amounts to £813.50.

Reasons for Decision

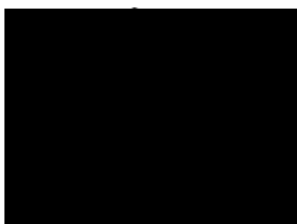
16. The Respondent has failed to make payment of the rent lawfully due in terms of the lease between the parties. The Applicant has lodged a rent statement for the period 26th April 2016 to 26th August 2020 in which payments have been missed which amount to £813.50 in rent arrears. The Tribunal was satisfied that there were no other issues of reasonableness before them. The Tribunal decided that the Respondents had persistently not paid the rent and were in arrears. As a consequence the Applicant was entitled to be granted the Order for payment of £813.50 against the Respondents. This is being paid at £50 per month. Mrs Steele is to commence payments on 10th February 2022 and monthly thereafter.

Decision

17. The Applicant is entitled to an order of payment of £813.50 from the Respondents. The Order was granted against the Respondent. A Time To Pay Direction will be issued with payment instalment of £50 per month commencing 10th February 2022.

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.



Legal Member/Chair

11th January 2022

Date

