



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

Chamber Ref: FTS/HPC/CV/22/0787

Re: Property at 7 Niddrie Square, B/1, Glasgow, G42 8QX (“the Property”)

Parties:

Mrs Allison Hussain, 430 Shields Road, Glasgow, G41 1NS (“the Applicant”)

Mr Saif Monir, 7 Niddrie Square, B/1, Glasgow, G42 8QX (“the Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member) and Miss E Munroe (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment in the sum of £4150 should be granted in favour of the Applicant.

Background

1. This is an application received in the period between 16th and 30th March 2022, made in terms of Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Rules”). The Applicant is seeking an order for payment in the sum of £4150 in respect of unpaid rent in terms of a Private Residential Tenancy agreement between the parties commencing on 12th April 2020.
2. The Applicant’s representative lodged a copy of the tenancy agreement and rent statement.
3. By email dated 10th June 2022, the Respondent’s representative lodged written representations, authorities and productions.
4. By email dated 5th July 2022, the Respondent’s representative stated that the Respondent was unwell and unable to attend the forthcoming Case Management Discussion.

Case Management Discussion

5. A Case Management Discussion (“CMD”) took place by telephone conference on 6th July 2022. Neither party was in attendance. The Applicant was represented by Mr Saqib Deen, Apex Property Services. The Respondent was represented by Ms Maureen Smith, Solicitor.
6. Mr Deen said there were further rent arrears, but no application had been made on behalf of the Applicant to increase the sum sought, therefore he was moving the Tribunal to grant the sum sought.
7. There was some discussion about the proposal put forward in written representations on behalf of the Respondent that the case be continued to allow a Time to Pay Direction application to be made, taking into account that a Rent Relief Order had been granted by another Tribunal in April 2022. Mr Deen said the repairs had now been carried out and an application had been made to the Tribunal for a completion certificate. Attempts have been made to contact the Respondent for over a year and no offer of payment has been made until now. Mr Deen had taken instructions from the Applicant, who was keen to have the application addressed today, without a continuation. Further consideration will be given to raising another application in due course, should that be necessary.
8. Ms Smith said the Respondent accepted that the sums were outstanding. The application for a Time to Pay Direction had been delayed because of the Respondent’s illness. She had also sought further information from the Applicant’s representative to ascertain the exact sum due, and had received no response. The Respondent was in the position to make a lump sum payment of £1200, and had tried a test payment to the Applicant’s representative and had not received a response as to whether it had been successful.

Findings in Fact and Law

9.
 - i. Parties entered into a private residential tenancy agreement in respect of the Property that commenced on 12th April 2020 at a monthly rent of £500.
 - ii. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondent.
 - iii. The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

10. The Respondent has failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties, and it would be prejudicial to the Applicant to continue the case to allow the Respondent to make a Time to Pay Direction

application, given that the arrears are agreed, and the Respondent has had a considerable period in which he could have made an application. The Respondent will now have the opportunity to made an application for a Time to Pay Order, should he so wish.

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.

H Forbes

Legal Member/Chair

6th July 2022
Date