



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/22/1830

Property : 42/5 Gogarloch Skye, South Gyle, Edinburgh EH12 9JB (“Property”)

Parties:

Jennifer Brunton, Balmonth Farm, Carnbee, Anstruther KY10 2RU (“Applicant”)

Michael Wilson, 16 Barntongate Avenue, Edinburgh EH4 8BB (“Respondent”)

Tribunal Members:

Joan Devine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“Tribunal”) determined that an order for payment of £8472.67 should be made, payable at the rate of £200 per month.

Background

The Applicant sought an order for payment in respect of rent arrears. The Applicant had lodged Form F. The documents produced were: a Private Residential Tenancy Agreement dated 23 April and 1 May 2021; a schedule of rent arrears as at 30 April 2022 and sheriff officer's execution of service certifying service of the Application on 6 September 2022.

Time to Pay Application

In advance of the case management discussion the Respondent submitted an application for time to pay in terms of which he admitted liability for the claim made by the Applicant and offered to pay the sum claimed at the rate of £200 per month. In the application the Respondent said that he was in full time employment earning £1673 per month with outgoings of £1450. He said he had two dependents living with him. The Applicant objected to the application for time to pay as it would take 42 months for the debt to be paid if repayments were £200 per month.

Case Management Discussion

A case management discussion took place before the Tribunal on 20 October 2022 by teleconference. The Applicant and the Respondent were both in attendance. The Respondent told the Tribunal that his current address was 16 Barntongate Avenue, Edinburgh EH4 8BB. The Applicant confirmed that the current sum due after application of the deposit received was £8472.67.

The Respondent told the Tribunal that his net income was £1673. He said that he was in full time employment with Network Rail. He had previously worked for them on a contract but this had been made permanent in recent months. He said that he had two children aged 10 and 13. He said that they lived with him every Wednesday and every second weekend. He said that he had moved in with his grandmother. She was now deceased and he continued to live in her house. He said that the figure of £600 shown in the application for time to pay as being "rent/mortgage" was the council tax of £280 for the house as well as energy costs. He said that once the house was sold he would be able to pay a lump sum to the Applicant. He said that he had no other assets or debts.

The Applicant said that she objected to the application for time to pay as it would take 42 months for the debt to be paid if repayments were £200 per month.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicant and the Respondent had entered into a Tenancy Agreement dated 23 April and 1 May 2021 ("Tenancy Agreement").
2. In terms of the tenancy agreement the rent was £895 per month.
3. The Respondent failed to pay the rent in full for the period 1 August 2021 to 1 June 2022. The unpaid amount was £8472.67.
4. Notice of the date of the case management discussion had been given to the Respondent on 6 September 2022.

Reasons for the Decision

The Tribunal allowed the address for the Respondent to be amended to 16 Barntongate Avenue, Edinburgh EH4 8BB. The Tribunal determined to make an Order for payment of the sum claimed. In terms of the tenancy agreement rent was due at the rate of £895 per month. The Respondent had failed to pay the rent in full for the period 1 August 2021 to 1 June 2022. As regards the application for time to pay, in all the circumstances the Tribunal determined to allow the debt to be paid at the rate of

£200 per month which would mean the debt would be repaid within approximately three and a half years.

Decision

The Tribunal grants an order for payment of £8472.67 repayable at the rate of £200 per month.

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.

J. Devine

Legal Member:

Date : 20 October 2022