



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/22/2516

Re: Property at 14 Westray St, Milton, Glasgow, G22 7SD (“the Property”)

Parties:

Mrs Tracey Carracher, 16 Heatherbank Av, Glasgow, G69 8EQ (“the Applicant”)

Ms Angela McGlaughlin, 14 Westray St, Milton, Glasgow, G22 7SD (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatrige (Legal Member) and Eileen Shand (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that a payment order for the amount of £ 8,000 by the Respondent to the Applicant should be granted.

A: Background

1. The application for an order for payment of rent arrears under S 71 of the Private Housing (Tenancies) (Scotland) Act 2016 arising from a Private Residential Tenancy Agreement between the parties was made by the Applicant on 26.7.22. The amount was updated from £7,400 as stated in the initial application to £8,000 on 19.8.22.
2. The following documents were lodged by the Applicant in the conjoined applications relating to eviction and payment of rent arrears for the property to support the application and are referred to for their terms and held to be incorporated herein:
 - a. Copy tenancy agreement between the parties over the property commencing on 29.3.19 in a Short Assured Tenancy style document, unsigned
 - b. Tenancy agreement in the form of a Private Residential Tenancy (PRT) model tenancy agreement signed only by the Applicant on 4.7.22
 - c. Notice to Leave dated 2.5.22 on grounds 11 and 12.

- d. Email sending same on 2.5.22 to Respondent.
 - e. Bank Statements for the from 5 March 19 to 5 July 22 showing relevant payments from Respondent to Applicant.
 - f. Letter re rent arrears from Applicant to Respondent 13.1.21
 - g. S 11 notice to local authority
 - h. Email sending same on 8.7.22
 - i. Email from Respondent stating she will not move out on 3.6.22
 - j. Tenancy rent statement for the period from 29.4.19 to August 22.
 - k. Authorisation letter by joint owner dated 10.8.22
3. The case documents are referred to for their terms and held to be incorporated herein.
 4. On 12/1.23 the application and notification of the Case Management Discussion (CMD) was served by Sheriff Officers on the Respondent. The Tribunal was satisfied that the Respondents had the required notice of the CMD as set out in Rules 17 (2) and 24 (2) of the Procedural Rules.
 5. No formal representations were received from the Respondent.

B: Case Management Discussion

1. The CMD took place by teleconference on 23.2.23. The Applicant attended the CMD. The Respondent did not take part in the teleconference call.
2. The legal member explained the purpose of the CMD.
3. The Applicant explained the rent is £600 per month and had been unchanged since the tenancy started on 29.3.19. The first payment missed was in August 2019 and thereafter the missing or partial payments had been received as per the rent statement. Despite writing to the Respondent and trying to contact her by telephone and email to resolve matters, the Respondent had not been in contact at all and that the arrears as of 23.2.23 were actually £11,600 because nothing further had been paid by the Respondent since the application had been made. The tenant had been in arrears continuously since August 2019. The Applicant stated she had tried to contact the Respondent on many occasions. Since around Christmas 2021 the Respondent had stopped reacting to telephone calls and emails, with the exception of the email message lodged advising she would not be moving out. The Applicant confirmed she does not have a deposit from the Respondent. She is desperate to have this situation resolved.
4. The Tribunal members pointed out to the Applicant that the Respondent had not explicitly been advised that the Applicant was now seeking payment of all rent arrears amounting to a total of £11,600 and gave the Applicant the option of either limiting the amount of any order in these proceedings to the amount previously notified to the Respondent and contained in the updated application or seeking to amend the amount, which would then require further proceedings for the amendment to be intimated to the Respondent. The Applicant chose to limit the amount sought in the application to have the matter dealt with at the CMD.

C: Findings in Fact:

Based on the evidence lodged and the representations of the participants at the CMD the Tribunal makes the following findings in fact:

1. The property was let on a Private Residential Tenancy Agreement commencing on 29.3.19.
2. The parties were the landlord and tenants of said Tenancy Agreement.
3. The tenancy continues.
4. The monthly rent of £600 is payable on the 29th day of the month and monthly in advance.
5. Rent arrears of £8,000 accrued as shown in the Rent Statement submitted for the period of up to and including August 2022 and are still outstanding for that period on the date of the CMD on 23.2.23

D: Reasons for decision

1. Relevant legislation:

In terms of Rule 17 of the Rules of Procedure:

Case management discussion

17.—(1) The First-tier Tribunal may order a case management discussion to be held—

(a) in any place where a hearing may be held;

(b) by videoconference; or

(c) by conference call.

(2) The First-tier Tribunal must give each party reasonable notice of the date, time and place of a case management discussion and any changes to the date, time and place of a case management discussion.

(3) The purpose of a case management discussion is to enable the First-tier Tribunal to explore how the parties' dispute may be efficiently resolved, including by—

(a) identifying the issues to be resolved;

(b) identifying what facts are agreed between the parties;

(c) raising with parties any issues it requires to be addressed;

(d) discussing what witnesses, documents and other evidence will be required;

(e) discussing whether or not a hearing is required; and

(f) discussing an application to recall a decision.

(4) The First-tier Tribunal may do anything at a case management discussion which it may do at a hearing, including making a decision.

Power to determine the proceedings without a hearing

However, in terms of Rule 18 of the Rules of Procedure:

18.—(1) Subject to paragraph (2), the First-tier Tribunal—

(a) may make a decision without a hearing if the First-tier Tribunal considers that—

(i) having regard to such facts as are not disputed by the parties, it is able to make sufficient findings to determine the case; and

(ii) to do so will not be contrary to the interests of the parties; and

(b) must make a decision without a hearing where the decision relates to—

(i) correcting; or

(ii) reviewing on a point of law,

a decision made by the First-tier Tribunal.

(2) Before making a decision under paragraph (1), the First-tier Tribunal must consider any written representations submitted by the parties

2. The Tribunal did not consider that there was any need for a hearing as there had been no representations from the Respondents and thus the arrears of £8,000 for the period of up to August 22 as shown in the rent statement are not in dispute.

3. The Tribunal makes the decision on the basis of the documents lodged by the Applicant and the information provided by the Applicant at the CMD.

4. The Tribunal is thus satisfied that the Respondent had entered into a Private Residential Tenancy Agreement with the Applicant for the property. The rent was £600 per month and payments were made as set out in the rent statement and bank statements lodged. No application for a time to pay direction or any other representations were provided by the Respondent. The amount stated in the updated application was still due and resting owing as of the date of the CMD. The Respondents had due notice of the amount and has not disputed the amount. As the amount is due and not disputed there is no need for a hearing and the Tribunal thus grants a payment order for the amount of £8,000.00 for arrears of rent up to and including August 2022.

E: Decision:

The Tribunal grants the order for payment of the amount of £8,000.00 by the Respondent to the Applicant. The decision was unanimous.

F: 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.

24.2.2023

Legal Member/Chair

Date