



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under rule 30 of the First-tier Tribunal Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Rules”)

Chamber Ref: FTS/HPC/CV/22/2894

Re: Property at 21 Cartha Street, Flat 0/2, Glasgow, G41 3HH (“the Property”)

Parties:

Mr Piyush Mishra, 12 Chestnut Drive, Middlesex, HA5 1LY (“the Applicant”)

Mr George Bedden, 21 Cartha Street, Flat 0/2, Glasgow, G41 3HH (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent’s application for the recall of the Tribunal’s decision of 15 February 2023 should be refused.

Background

1. Following a Case Management Discussion (“CMD”) held by teleconference on 15 February 2023 which the Respondent did not attend the Tribunal by its decision of the same date granted an order for payment by the Respondent to the Applicant the sum of £5055.00.
2. By undated letter received by the Tribunal administration on 20 March the Respondent submitted an application to the Tribunal for the recall of the Tribunal’s decision of 15 February 2023. The Respondent submitted that that it was in the interests of justice that the Decision be recalled as he had not received the Decision until 10 March 2023; he had been unaware of the hearing; he was unable to attend by teleconference; he disputed the amount of

the arrears and had been paying off arrears and would be represented at a future CMD.

3. Although the application was not timeous the Tribunal determined to fix a CMD to give the Respondent the opportunity to be represented and to state his case at a CMD where the Tribunal would consider whether or not to grant the application for recall.
4. By email dated 12 April 2023 the Respondent submitted further written representations to the Tribunal.

The Case Management Discussion

5. A CMD was held by teleconference on 27 June 2023. The Applicant did not attend but was represented by Mr Javid Haq of Martin & Co, The Respondent did not attend nor was he represented. The Tribunal being satisfied the Respondent had been given proper intimation of the date and time of the CMD determined to proceed in his absence.
6. The Tribunal referred Mr Haq to the written representations submitted by the Respondent and asked for his comments. Mr Haq advised the Tribunal that the Respondent had first fallen into arrears in July 2021 when he had missed some rent payments and that by June 2022 his payments had been erratic. Mr Haq said that as a result the Respondent had been approached and had agreed to pay an additional £300.00 per month to clear the arrears but that this agreement had not been met. Mr Haq said that he had visited the Respondent on several occasions and had been told about the Respondent's bank account being hacked. He said he had asked for some confirmation in writing from the bank but this had not been produced and he had even offered to accompany the Respondent to his bank to assist him without success. Mr Haq went on to say that his office had been contacted by a retired solicitor representing the Respondent who had disputed the amount said to be due but had acknowledged that the rent statement produced did not agree with the information provided by the Respondent. Mr Haq said that he had asked the Respondent's representative to produce bank statements if he wished to challenge the figures but had then heard nothing further.
7. Mr Haq went on to say that the current level of arrears amounted to £6830.00.

Reasons for Decision

8. The Tribunal took account of what was said on behalf of the Applicant and it appeared that although the Respondent had previously sought to challenge the level of arrears no evidence to support this had been produced. Furthermore, in his written submissions to the Tribunal dated 12 April 2023 the Respondent stated that at that date after having paid two payments of £300.00 since March he owed the Applicant £5645.00. that amount is greater than the amount of the sum awarded in the Tribunal's decision of 15 February.

9. Having carefully considered the submissions by the Respondent the Tribunal is satisfied that the application for recall should be refused as the Respondent has acknowledged that the debt is due and although he has now on a number of occasions indicated that his bank account has been hacked and his bank will reinstate funds there is no evidence that this is the case and it appears that the arrears are continuing to increase..

Decision

10. The application for recall is refused.

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.

**Graham Harding
Legal Member/Chair**

**27 June 2023
Date**