



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/22/3098

Re: Property at 76 Carron Place, Irvine, North Ayrshire, KA12 9NE (“the Property”)

Parties:

Easton Property Limited, 2 Newfield Drive, Dundonald, South Ayrshire, KA2 9EW (“the Applicant”)

Miss Angela Lennon, Mr Stuart Adam, 76 Carron Place, Irvine, North Ayrshire, KA12 9NE (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £6400.00 subject to a Time to Pay Direction at the rate of £100.00 per month.

Background

1. By application dated 26 August 2022 the Applicant applied to the Tribunal for an order for payment in respect of alleged rent arrears owed by the Respondents arising from their tenancy of the property. The Applicant submitted a copy of the tenancy agreement and rent statement in support of the application.
2. Following further correspondence between the Tribunal administration and the applicant by Notice of Acceptance dated 25 October 2022 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondents by Sheriff Officers on 8 December 2022.
4. By email dated 17 January the Respondents' representative Mr Alister Meek from CHAP, Ardrossan, submitted an application for a Time to Pay direction on behalf of the Respondents.
5. By emails dated 19 and 24 January 2023 the Applicant sought to increase the sum claimed to £6400.00 and oppose the granting of the Time to Pay Direction.

The Case Management Discussion

6. A CMD was held by teleconference on 27 January 2023. The Applicant was represented by its property manager Ms Aynsley Barclay. The Respondents did not attend but were represented by Mr Alister Meek.
7. Mr Meek confirmed that the Respondents accepted that the sum owed by them amounted to £6400.00 and that there was no objection to the sum claimed being amended to that amount. The Tribunal therefore allowed the sum claimed to be amended to £6400.00.
8. The Tribunal noted that the Respondents did not dispute the claim and wished the Tribunal to make a Time to Pay Direction at the rate of £100.00 per month. After some discussion with regards to the figures provided in the application it was confirmed that the Respondents net monthly income although paid weekly was £1907.32 with net outgoings of £1721.63. It was noted that in addition the Respondents may have some rent and Council Tax to pay and £100.00 per month was said to be a realistic amount they could pay each month.
9. For the Applicant Ms Barclay advised the Tribunal that as it would take in excess of five years to clear the debt the application was opposed.
10. Following a short adjournment and after it being established that the Respondents were not prepared to increase their offer and Ms Barclay taking account of the likely time it would take to recover the sum due under an earnings arrestment, she withdrew her opposition to the application for a Time to Pay Direction.

Findings in Fact

11. The Respondents are the tenants of the Applicant in terms of a Private Residential Tenancy agreement that commenced on 1 December 2020 at a rent of £400.00 per calendar month.
12. The Respondents owe rent to the Applicant amounting to £6400.00 as at 1 January 2023.

Reasons for Decision

13. The Respondents accepted that they owed the Applicant rent of £6400.00.
14. The Respondents representative submitted an application for a Time to Pay direction and provided information to suggest that £100.00 was as much as the Respondents could afford to pay to clear the debt. The Tribunal took account of the fact that it would take in excess of 5 years to pay off the sum due. However, as the Applicant was prepared to withdraw their objection to the application the Tribunal was prepared to grant the Time to Pay application in the sum of £100.00 per month.

Decision

15. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £6400.00 and grants the Respondents application for a Time to Pay Direction at the rate of £100.00 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.

**Graham Harding
Legal Member/Chair**

**27 January 2023
Date**