



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/23/0221

Re: Property at 50/1 Portobello High Street, Edinburgh, EH15 1DA (“the Property”)

Parties:

Mr Richard Taylor, 29 Princess Mary Road, Edinburgh, Midlothian, EH16 4FU (“the Applicant”)

Mr Leon Back, 50 Newton Village, Dalkeith, Midlothian, EH22 1SN (“the Respondent”)

Tribunal Members:

Gabrielle Miller (Legal Member) and Elaine Munroe (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant is entitled to an order for payment for £4400 (FOUR THOUSAND FOUR HUNDRED POUNDS) with interest at 8% per annum from the date of this decision, namely 16th August 2023.

Background

1. An application was received by the Housing and Property Chamber dated 23rd January 2023. The application was submitted under Rule 111 of The First-tier for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the 2017 Regulations”). The application was based on the Respondent not maintaining rent payments. The Applicant seeks an order for payment from the Respondent for £4400 plus interest at 8% per annum.

2. On 12th April 2023 all parties were written to with the date for the Case Management Discussion (“CMD”) of 17th May 2023 at 2pm by teleconferencing. The letter also requested all written representations be submitted by 3rd May 2023.

3. On 14th April 2023, sheriff officers served the letter with notice of the hearing date and documentation upon the Respondent. This was evidenced by Certificate of Intimation dated 14th April 2023.

The Case Management Discussion

4. A CMD was held 17th May 2023 at 2pm by teleconferencing. The Applicant was not present but was represented by Mr John McKeown, solicitor, Jackson Boyd Solicitors. The Respondent was present and represented himself.

5. Mr McKeown said that the amount of £4400 was still outstanding. Interest is being sought at 8% per annum. He said that there has been no contact from the Respondent regarding payments.

6. The Respondent said that he did not accept all the arrears. He admits that he was liable for some of the arrears but not all of it. He had a difficult time and he had lost his job. He had been advised that he should have applied for Universal Credit. However, he found new employment before he applied for Universal Credit.

7. The Respondent said that he had entered into an agreement in February 2022 to pay £816.16 per month but he did not make any of those payments. He said had he done so he would have paid off his arrears. He said that he was not able to make those payments because he had mental health issues and had a relationship break up.

8. The Respondent also said that he did not feel that he required to pay the full amount as he did not have a working boiler for a month. He was told that he would have a £100 reduction but did not fully understand that. Mr McKeown said that this was noted on the rent account and was happy to forward another copy to him.

9. The Respondent was not able to confirm to the Tribunal about how much of the amount sought that he admitted and how much he disputed. The Respondent said that he would like to enter into a payment agreement with the Applicant in terms of the amount of arrears that he admitted.

10. The Tribunal considered the only option, given that the amount of arrears is disputed, that a hearing would need to be fixed. The Tribunal will need more information in terms of the Respondent's defence and how much money was admitted as being owed. The Tribunal will issue a direction to the Respondent.

11. The Tribunal noted that parties were not prohibited from continuing negotiations. If an agreement is reached upon the amount then a Time To Pay Direction ("TTPD") can be lodged by the Respondent. A discussion followed regarding a Time To Pay Direction ("TTPD"). It was explained that this would allow the Respondent to pay up the outstanding arrears. The Tribunal noted that the Respondent would need to be active in applying for the TTPD if that is appropriate. He would need to contact the Housing and Property Chamber to request that a TTPD be sent to him. If he was

looking to seek money advice to help him complete the TTPD then this appointment would need to be made and attended in advance of the hearing so that the Applicant can consider the contents of the TTPD. Once the TTPD has been completed it would need to be lodged with the Housing and Property Chamber. The Applicant and Tribunal would then be sent a copy of it. If the Applicant agreed to the amount offered then the case would be dealt with administratively and would not proceed to the hearing. If the amount offered was not accepted by the Applicant then the case would proceed to the hearing. The Tribunal noted that a TTPD allows for the outstanding amount to be paid in instalments. Should those instalments stop before the debt is repaid then the Applicant is entitled to a full order for the remaining amount. The Tribunal also noted that should the Respondent decide not to proceed with a TTPD it will be most likely that at the hearing the Tribunal will grant an order to as far as the debt has been admitted at least. The Respondent understood these points. He was willing to look at lodging a TTPD and will get money advice. He took Mr McKeown's contact details to discuss the amount with him.

12. The Tribunal needed to Respondent to address the following questions at the hearing:

- a. What amount exactly does the Respondent admit was due to the Applicant?
- b. Of the remaining amount, if any, why does the Respondent consider that the amount is not due to the Applicant?
- c. What evidence does the Respondent have that amount is not due?

13. The case was adjourned to a hearing to allow the Respondent to clarify what proportion of the arrears is admitted and what his defence is to why any other amount is not admitted. A direction was be issued to the Respondent.

14. On 13th July 2023 all parties were written to with the date for the hearing of 16th August 2023 at 10am by teleconferencing.

The hearing

15. A CMD was held on 17th May 2023 at 2pm by teleconferencing. The Applicant was not present but was represented by Ms Gwenan White, trainee solicitor, Jackson Boyd Solicitors. The Respondent was not present and not represented. The Tribunal proceeded in terms of Rule 29 of the Rules. The Respondents did not make representations in advance of the hearing and he did not respond to the direction issued on 17th May 2023.

16. Ms White said that there has been no offers of payment by the Respondent. He had called her firm directly after the CMD. Her colleague tried to call him on two occasions and left a voicemail. He was also emailed. He did not respond to either. There has been no contact by the Respondent. The amount is still outstanding.

17. The Tribunal was satisfied that the outstanding amount for £4400 was due to the Applicant by the Respondent with interest from the date of the decision at 8% per annum and that it was appropriate to grant an order accordingly.

Findings and reason for decision

18. A Private Rented Tenancy Agreement commenced 28th July 2020. It ended on 28th July 2022.

19. The Respondent persistently failed to pay his rent charge of £600 per month. The rent payments were due to be paid on 28th day of each month.

20. There has been no offers of payment from the Respondent.

21. The Respondent has not adhered to the direction issued on 17th May 2023 which asked for clarification on the amount that he disputed that he owed. There was no evidence presented that there the whole amount was not due to the Applicant.

22. The amount sought is £4400 with interest at 8% per annum. There have been no payments to that amount to address the arrears.

Decision

23. The Tribunal found that the Applicant was entitled to be granted an order for payment amounting to £4400 with interest at 8% per annum from the date of this decision.

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.

Gabrielle Miller

16th August 2023

Legal Member/Chair

Date