



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”)

Chamber Ref: FTS/HPC/CV/23/0792

Re: Property at 5 A Spateson Road, Johnstone, PA5 0SU (“the Property”)

Parties:

Homes For Sapiens Ltd, care of 63 Causeyside Street, Paisley, PA1 1YT (“the Applicant”)

Miss Lucy Jones, Mr Regan Sanderson, 5a Spateson Road, Johnstone, PA5 0SU (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member) and Mike Scott (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment by the Respondent in the sum of £3,750 should be made in favour of the Applicant.

Background

1. By application received on 8 March 2023, the Applicant sought a payment order against the Respondent in the sum of £3,075 in respect of rent arrears. Supporting documentation was submitted with the application, including a copy of the tenancy agreement and a Rent Ledger Account. Said application was subsequently amended by the Applicant on 17 April 2023. When the sum sought was increased to £3,750 and an updated Rent Ledger Account was lodged.
2. On 12 May 2023, the application was accepted by a Legal Member of the Tribunal acting with delegated powers from the Chamber President who issued a Notice of Acceptance of Application in terms of Rule 9 of the Regulations.

Notification of the application and details of the Case Management Discussion ("CMD") fixed for 10 July 2023 was served on both Respondents by way of Sheriff Officer on 7 June 2023. In terms of said notification, the Respondent was given until 27 June 2023 to lodge written representations. No representations were lodged by the Respondent prior to the CMD.

Case Management Discussion

1. A Case Management Discussion ("CMD") took place by telephone conference call on 10 July 2023 at 10am, attended by Ms Jaqueline McLelland, Branch Manager and Daryl Harper, Assistant Manager, both of the Applicant's letting agents, Castle Residential, on behalf of the Applicant. The commencement of the CMD was delayed for 5 minutes to allow an opportunity for the Respondent to join late but they did not do so. The application called together with a separate application for an eviction order (Chamber reference FTS/HPC/EV/23/0750).
2. After introductions and introductory remarks by the Legal Member, Ms McLelland was asked to address the Tribunal on the application. She also answered some questions from the Tribunal Members. Reference was made to the terms of the application and the supporting documentation lodged with the Tribunal. It was established that the current level of rent arrears amounts to £5,775 and that the Applicant wished to proceed to seek an order today, albeit that the Legal Member had explained that the most that could be sought today was the sum of £3,750 in terms of the amended application, as the application had not been further amended and the Respondent had only had notice of the sum of £3,750 being sought.
3. Ms McLelland advised that it had primarily been the first-named Respondent, Miss Lucy Jones, whom they had dealt with in connection with the rent. When the arrears first started arising in 2021, Miss Jones had said that this was due to the sporadic nature of Mr Regan Sanderson, the second-named Respondent's work on building sites. Payment plans were made in the past and payments towards rent were made, but erratically and not enough to keep up with the ongoing rent or to pay off the arrears which had accrued. Mr Sanderson has been the more recent contact with the letting agents and has advised that Miss Jones moved out of the Property a few months ago, the letting agents believe as a result of relationship breakdown. Mr Sanderson also claimed not to know anything about the rent arrears and said that he had given the money to Miss Jones for rent but that she has not then made the payments and has kept the money. Initially, when Mr Sanderson made contact with them in February 2023, he made a payment offer in respect of the arrears which were then around £3,000. He made a payment offer of £300 per week and made two payments of £300 on 3 February and 14 February 2023. No further payments have been made since then and the arrears have risen further. Ms McLelland said that the letting agents had visited the Property recently, including two visits last week, in order to establish if Mr Sanderson was still resident as there had been no further payments nor contact from him. At the first visit, a gentleman answered the door but denied that he was Mr Sanderson. The letting agents checked the identification they had for Mr Sanderson on their file and, having

verified that the gentleman at the door had been Mr Sanderson, they visited again and informed him of this. Ms McLelland stated that Mr Sanderson had two large dogs in the Property and that he essentially threatened them with the dogs. Ms McLelland considered that Mr Sanderson's demeanour towards them over the past six to eight weeks has become rather aggressive. He has not made any further payment offers nor offered any explanation for recent non-payment. She does not know if Mr Sanderson is still working or if he has any state benefits claims. Ms McLelland asked the Tribunal to grant the payment order sought today.

Findings in Fact

1. The Applicant is the owner and landlord of the Property.
2. The Respondent is the joint tenant of the Property by virtue of a Private Residential Tenancy which commenced on 16 April 2021.
3. The rent due in respect of the tenancy is £675 per calendar month.
4. The rent was initially paid regularly but then payments began to be missed or paid erratically since around October/November 2021.
5. The last payment towards rent was £300, made on 14 February 2023 and no payments have been made since.
6. The Applicant's letting agents have contacted the Respondent throughout concerning the arrears.
7. Payment offers have been made by the Respondent at various times but arrangements have not been maintained.
8. The second-named Respondent remains in occupation of the Property.
9. The rent arrears outstanding when this Application was submitted to the Tribunal amounted to £3,075 and have now risen to £5,775.
10. The Respondent has not submitted any written representations, nor sought time to pay, in respect of this application, nor attended the CMD.
11. The sum of £3,750 is due and resting owing by the Respondent to the Applicant in respect of rent arrears incurred during the tenancy and has not been paid by the Respondent.

Reasons for Decision

1. The Tribunal considered all of the background papers, including the application and supporting documentation and the oral submissions made by the Applicant's representative at the CMD. The Tribunal noted that no representations had been made by the Respondent and that they did not attend

the CMD, having been properly and timeously notified of same. The Tribunal considered that there was nothing to contradict the information from the Applicant and therefore no requirement to continue the application to an Evidential Hearing. The Tribunal was satisfied that, in the circumstances, a payment order in terms of the application, as amended, could properly be made at the CMD.

2. The Tribunal was satisfied from the information before them that the sum of £3,750 in unpaid rent is due and resting owing by the Respondent in terms of this Application and that an order for payment in that sum should accordingly be made.

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.

Nicola Weir

Legal Member/Chair:

Date: 10th of June 2023