



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 Rules of Procedure 2017

Chamber Ref: FTS/HPC/CV/23/1810

Re: Property at 66A Garry Drive, Paisley, PA2 9BY (“the Property”)

Parties:

Excel Properties Scotland Limited, 30 Patrickbank Wynd, Johnstone, PA5 9US (“the Applicant”)

Mr William Wilson, 66A Garry Drive, Paisley, PA2 9BY (“the Respondent”)

Tribunal Members:

Fiona Watson (Legal Member) and Ann Moore (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant:

Sum of FIVE THOUSAND NINE HUNDRED POUNDS (£5,900) STERLING

- Background
 1. An application dated 5 June 2023 was submitted to the Tribunal under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”), seeking a payment order against the Respondent in relation to rent arrears accrued under a private residential tenancy agreement.
- The Case Management Discussion
 2. A Case Management Discussion (“CMD”) took place on 4 September 2023 by way of tele-conference. The Applicant was represented by Jennifer Cochran, Cochran Dickie. The Respondent did not attend nor was he represented. The

Respondent emailed the Tribunal administration shortly prior to the commencement of the CMD to advise that he would not be attending. The Tribunal, was satisfied that the Respondent had received notification of the CMD and that the CMD could proceed in his absence.

3. A separate application by the Applicant seeking a repossession order against the Respondent under Rule 109 of the Rules and under case reference FTS/HPC/EV/23/1809 was heard at the same time
4. Prior to the CMD the Respondent had submitted a Time to Pay Application, in which he admitted the sum due and sought repayment terms at the rate of £50 per fortnight. Opposition to the said Time to Pay Application was lodged by the Applicant in advance of the CMD.
5. The Applicant's representative moved for the order for payment to be granted in the increased sum of £7,100. The Applicant's representative opposed the Time to Pay Application. The parties had entered into a Private Residential Tenancy Agreement which commenced 5 February 2021. The Respondent had failed to make payment of rent and at the time of submitting the application had fallen into arrears amounting to £5,900. Since submitting the application, the arrears had increased to £7,100. Nothing had been paid towards the rent since March 2022. It was submitted that the Time to Pay Application included the wrong figure for rent, with the Respondent detailing that the rent was £350 per month when it was in fact £400. It was submitted that in any event, the Respondent has not paid any rent at all since March 2022. It was submitted that if the Time to Pay Application was granted, it would take over five years to repay the sum due and which the Applicant's representative submitted was not reasonable.

- Findings in Fact

6. The Tribunal made the following findings in fact:

- (i) The parties entered into a Private Residential Tenancy Agreement ("the Agreement") which commenced 5 February 2023;
- (ii) In terms of Clause 8 of the Agreement, the Respondent was obliged to pay a monthly rent of £400 to the Applicant;
- (iii) The Respondent had failed to make payment of rent as fell lawfully due, and had accrued arrears amounting to £5,900 at the date the application was submitted.

- Reasons for Decision

7. The Tribunal was satisfied that the Applicant was entitled to a payment order in the sum as sought in the application, being £5,900, and which sum was admitted by the Respondent in his Time to Pay Application. The Tribunal refused the Applicant's motion to increase the sum sought to the current arrears figure of £7,100, as the Applicant had not submitted an application to do so at least 14 days prior to the CMD as is required in terms of Rule 14A.

8. The Tribunal considered the information submitted by the Respondent in his Time to Pay Application which set out his income and expenditure. The Tribunal noted that the rental figure was incorrectly stated, and that despite the Respondent including this in his expenditure to come to the figure offered of £50 per fortnight, he had not paid any rent at all since March 2022. No explanation had been offered by the Respondent as to why nothing had been paid. The Tribunal noted that it would take around four and half years to repay the arrears of £5,900 at such a rate, which the tribunal did not consider to be a reasonable period of time. The Respondent's Time to Pay Application was accordingly refused.

- Decision

9. The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that an order is granted against the Respondent for payment of the undernoted sum to the Applicant:

Sum of FIVE THOUSAND NINE HUNDRED POUNDS (£5,900) STERLING

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.

Fiona Watson

Legal Member/Chair

Date: 4 September 2023