



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) 2016 Act

Chamber Ref: FTS/HPC/CV/23/1971

Re: Property at 3 Cramond Brig Cottages, Edinburgh, Midlothian, EH4 6DU (“the Property”)

Parties:

The Earls Partnership, Rosebery Estates Office, Dalmeny House, South Queensferry, EH30 9TQ (“the Applicants”)

Gerald Monkhouse, 3 Cramond Brig Cottages, Edinburgh, Midlothian, EH4 6DU (“the Respondent”)

Tribunal Members:

Joel Conn (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 payment in the sum of £10,708.19 be granted against the Respondent.

- 1) This was an application by the Applicants for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy (“PRT”) by the Applicants to the Respondent commencing on 1 August 2022. The Title Sheet for the Property was obtained and showed that the title was held by partners on behalf of the Applicants, a partnership known as The Earls Partnership.
- 2) The application was dated 14 June 2023 and lodged with the Tribunal on that date. The application sought payment of arrears of £11,000 and was accompanied by a rent statement showing eleven missed rental payments of £1,000/month from 1 August 2022 to 1 June 2023 (though we note that this statement was inaccurate as detailed below) . The lease for the Tenancy

accompanied the application and it detailed a rental payment of £1,000 payable in advance on the 1st of each month.

- 3) In advance of the case management discussion (“CMD”) the Applicants’ agent provided an updated rent statement showing that arrears to 2 October 2023 were now £10,708.19 as discussed further below.

The Hearing

- 4) The matter called for a case management discussion (“CMD”) of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 10 October 2023 at 10:00. We were addressed by Alexandra Graham, solicitor, Turcan Connell, for the Applicants. There was no appearance from the Respondent.
- 5) We were informed by the clerk that no contact had been received from the Respondent (or on his behalf) with the Tribunal. The Applicants’ agent stated that there had been no contact from the Respondent since before the application was lodged. Further, despite some payments having now been applied to the rent account (as discussed below), there had been no engagement by the Respondent, nor anyone on his behalf, nor from the City of Edinburgh Council that had made the payments, in regard to the payments.
- 6) We considered that the Respondent had received clear intimation of the CMD from Sheriff Officers. Having not commenced the CMD until around 10:05, we were satisfied to consider the application in the Respondent’s absence. In any case, no attempt was made by the Respondent to dial in late to the CMD.
- 7) At the CMD, the Applicants’ agent confirmed that the application for an order for payment was still sought but now at the reduced figure of £10,708.19 to cover all arrears of rent for rent through to 31 October 2023. The statement of arrears lodged with the application showed no payments received against rent from 1 August 2022 to 1 June 2023. In regard to the updated statement of arrears sent to the Tribunal on 2 October 2023, the Applicants’ agent confirmed that no further payments of rent had been received since this updated statement, but the new statement showed seven monthly payments allocated against the rent due from 1 March 2023 to 1 September 2023. There were three payments of £602.30 (applied against the rent from March to May 2023), one payment of £602.32 (applied against June 2023), and three payments of £627.53 (applied against the rent from July to September 2023). The Applicants’ agent confirmed that these were payments from City of Edinburgh Council which generally arrived near the end of the month against which they had been allocated in the rent arrears statement. It was assumed by the Applicants that the payments were a payment of some form of benefit, but the payments had started without warning in March 2023 and appeared to have stopped in September 2023 (though a payment later this month may yet still arrive).
- 8) No motion was made for expenses. The Applicants’ agent confirmed that she had no instructions to seek interest. (We noted that the Tenancy Agreement did

contain reference to a contractual interest rate, and that no interest was sought in the application.)

Findings in Fact

- 9) On or about 17 and 18 October 2022 the Applicants let the Property as a Private Residential Tenancy to the Respondent under a lease with back-dated commencement date of 1 August 2022 (“the Tenancy”).
- 10) In terms of clause 2.1 of the Tenancy Agreement, the Respondent required to pay rent of £1,000 a month in advance on the 1st day of each month.
- 11) On 14 June 2023, the Applicants raised proceedings against the Respondent for an order for payment of the rent arrears of £11,000 said to be due to 1 June 2023, being said to be unpaid rent of £1,000 per month from 1 August 2022 to 1 June 2023.
- 12) Between March 2023 and September 2023, City of Edinburgh Council made payments to the Applicants in regard to the Tenancy totalling £4,291.81.
- 13) No payments, other than those from City of Edinburgh Council, were received in regard to the Tenancy between 1 August 2022 and 2 October 2023.
- 14) The rent due for the period from 1 August 2022 to 1 October 2023 (covering the rent due from 1 August 2022 to 31 October 2023) is £15,000, less the said payments of £4,291.81.
- 15) On 31 August 2023, the Tribunal intimated to the Respondent the date and time of the CMD of 10 October 2023 by Sheriff Officer.
- 16) The arrears due as at 10 October 2023 are £10,708.19 in respect of rent due to 31 October 2023.
- 17) The Respondent provided no evidence of payment of any part of the said unpaid rent of £10,708.19.

Reasons for Decision

- 18) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. We were satisfied, on the basis of the application and supporting papers, that rent arrears of £10,708.19 were due for the period 1 August 2022 to 31 October 2023 and remained outstanding as of today.
- 19) No defence was made by the Respondent to any part of the application. (There was no appearance or defence to a conjoined application for eviction either.)
- 20) The application, supplemented by the updated rent arrears statement, clearly set out the sums sought and we were satisfied that the necessary level of evidence for these civil proceedings had been provided.

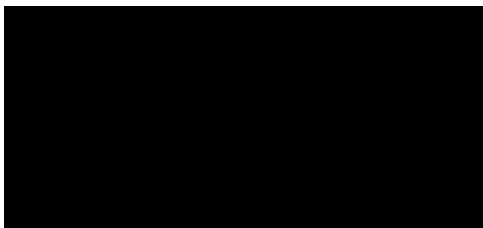
21) The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. We were thus satisfied to make a decision at the CMD to award the sum of £10,708.19 against the Respondent being an order restricted to sums due under the Tenancy in regard to rent up to 31 October 2023.

Decision

22) In all the circumstances, we were satisfied to make the decision to grant an order against the Respondent for payment of £10,708.19.

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.



10 October 2023

Legal Member/Chair

Date