



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under 70(1) of Private Housing Tenancies
(Scotland) Act 2016**

Chamber Ref: FTS/HPC/CV/20/2639

Re: Property at 38 Mansfield Road, Bellshill, ML4 3AQ (“the Property”)

Parties:

Mr William Andrew James Damian Young, Ms Laura Crombie, 48 Kenilworth Crescent, Bellsill, ML4 3EG; 48 Kenilworth Crescent, Bellshill, ML4 3EG (“the Applicants”)

Mr Thomas Bunch, 38 Mansfield Road, Bellshill, ML4 3AQ (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Ahsan Khan (Ordinary Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order in the sum of Six thousand seven hundred and fifty pounds (£6750) against the Respondent

Background

- 1 By application to the Tribunal the Applicant sought an order for payment against the Respondent in respect of rent arrears. In support of the application the Applicant provided a copy of the Private Residential Tenancy Agreement between the parties dated 7 September 2019 and a Rent Statement.
- 2 By Notice of Acceptance of Application the Legal Member with delegated powers of the Chamber President intimated that there were no grounds on which to reject the application. A Case Management Discussion was therefore assigned for the 27 April 2021, to take place by teleconference due to the restrictions imposed by the Covid-19 pandemic. A copy of the application paperwork together with notification of the date and time of the Case

Management Discussion and instructions on how to join the teleconference was intimated to the Respondent by Sheriff Officers on 24 March 2021.

First Case Management Discussion

- 3 The Case Management Discussion took place by teleconference on 27 April 2021. The Applicant was represented by Mrs Joanne Hogg, Stodarts Solicitors and accompanied by Barry Haq, Trainee Solicitor, as an observer. The Respondent was not present. The Tribunal noted that service of the application paperwork had been effected upon him by Sheriff Officers which included notification of the date, time and location of the Case Management Discussion. The Tribunal therefore determined to proceed in his absence.
- 4 The Tribunal noted that Mrs Hogg had submitted on behalf of the Applicant an updated rent statement which showed rent arrears of £5850 as at 23 March 2021. Mrs Hogg advised that she was seeking an order for payment in that figure. The Tribunal clarified that in terms of the amended application the Applicant was not seeking interest nor expenses. The Tribunal noted the provisions of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedures 2017, as amended, which set out timescales for requesting amendment to an application, including amendment of the sum sued for. Rule 14A provides that a request for amendment must be made at least 14 days in advance of the Case Management Discussion. Accordingly the Tribunal advised Mrs Hogg that a verbal request at the Case Management Discussion would not be sufficient in the absence of prior written notification
- 5 Mrs Hogg therefore confirmed that she was seeking an adjournment of the Case Management Discussion to enable a request for amendment of the application to be submitted and considered by the Tribunal. The Tribunal therefore agreed to adjourn the Case Management Discussion for the Applicant to submit a request to amend the application and increase the sum sought.
- 6 On 11 May 2021 Mrs Hogg submitted an updated rent statement confirming arrears of £6750 as at 7 May 2021 and requested amendment of the application to reflect that sum. The request for amendment was subsequently intimated upon the Respondent.

Second Case Management Discussion

- 7 The second Case Management Discussion took place on 28th May 2021 by teleconference. Mrs Hogg was in attendance on behalf of the Applicant. She was accompanied by Ms Senga Love, the managing agent for the property, as well as Mr Haq as an observer. The Respondent was not present however it was noted that he had been given notification of the date and time of the adjourned Case Management Discussion as well as instructions for joining the teleconference. The Tribunal therefore considered it could proceed in his absence.

- 8 The Tribunal noted the request to amend the sum sought to £6750. Mrs Hogg confirmed that the Applicant sought an order in those terms. There had been no engagement from the Respondent and no payments.

Findings in Fact and Law

- 9 The parties entered into a Private Residential Tenancy Agreement which commenced on 7 September 2019.
- 10 In terms of Clause 8 of the said Tenancy Agreement the Respondent undertook to make payment of rent at the rate of £450 per month.
- 11 As at 28 May 2021, arrears in the sum of £6750 are outstanding.
- 12 Despite repeated requests the Respondent has refused or delayed to make payment of the rent due.

Reasons for Decision

- 13 The Tribunal was satisfied at the Case Management Discussion that it had sufficient information upon which to make a decision and that to do so would not be prejudicial to the interests of the parties. The Respondent had been given the opportunity to take part in the proceedings but had chosen not to do so. On that basis the Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved.
- 14 Based on its findings in fact the Tribunal concluded that the Respondent was due to make payment of the sum of £6750 to the Applicant in terms of the tenancy agreement between the parties. The Respondent had not sought to put anything before the Tribunal to contradict the Applicant's position in that regard.
- 15 The Tribunal therefore determined to make an order for payment against the Respondent in the sum of £6750. The decision of the Tribunal was unanimous.

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.

Ruth O'Hare

28th May 2021

Legal Member/Chair

Date