



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

Chamber Ref: FTS/HPC/CV/21/0840

Re: Property at 136 Dundee Loan, Forfar, DD8 1EB (“the Property”)

Parties:

Lynart Shepherd Ltd, 23 Wyllie Street, Forfar, DD8 3DN (“the Applicant”)

Miss Shannon Ledingham, Mrs Wendy Milne, 29 Glenclova Terrace, Forfar, DD8 1NR; 70 Viewmount, Forfar, DD8 1LJ (“the Respondents”)

Tribunal Members:

Ruth O’Hare (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondents in the sum of £1117.22 with a time to pay direction at the rate of £75 per month.

- 1 By application dated 6 April 2021, the Applicant sought an order for payment of rent arrears in the sum of £1117.22 against the Respondent. In support of the application the Applicant provided:-
 - (i) Tenancy Agreement between the parties, including the Second Named Respondent as Guarantor, dated 4 June 2020;
 - (ii) Rent Account;
 - (iii) Copy email correspondence between the Applicant’s agent and the First Named Respondent regarding outstanding rent arrears;
 - (iv) Excerpt text messages between the Applicant’s agent and the First Named Respondent regarding outstanding rent arrears;

- (v) Non-Resolution Certificate from Safe Deposits Scotland;
 - (vi) Trace Report invoice from Vilcol;
 - (vii) Copy email correspondence between the Applicant's agent and the Second Named Respondent regarding outstanding rent arrears.
- 2 By Notice of Acceptance of Application the Legal Member of the Tribunal, with delegated powers from the Chamber President, determined that there were no grounds to reject the application. A Case Management Discussion was therefore assigned for 17 June 2021, to take place by teleconference due to the ongoing restrictions arising from the Covid-19 pandemic.
 - 3 The application paperwork was served personally upon the Second Named Respondent, who also accepted service on behalf of the First Named Respondent, on 18 May 2021 by Sheriff Officers. The paperwork contained notification of the date and time of the Case Management Discussion together with instructions for joining the teleconference.
 - 4 On 7 June 2021 the Tribunal received a time to pay application from the First Named Respondent. In terms of the said application, the First Named Respondent offered payment of £50 per month towards the outstanding debt. The Applicant's agent submitted a response objecting to the application on the basis that the First Named Respondent had made repeated offers of payment which had not been honoured, it was clear that she had disposable income from the information provided and a more reasonable offer would be £100 per month. The Tribunal noted that the Second Named Respondent was not named in the time to pay application and it was not clear whether she was disputing the terms of the application. Accordingly the Tribunal determined to continue consideration of the time to pay application to the Case Management Discussion.

Case Management Discussion

- 5 The Case Management Discussion took place on 17 June 2021. The Applicant was represented by David Shepherd. The Respondents were both present.
- 6 The Legal Member explained the purpose of the Case Management Discussion. As a preliminary matter she noted the terms of the time to pay application submitted by the First Named Respondent. Mr Shepherd advised that he would be looking for an increased sum of around £100 per month. Given that Ms Ledingham had broken payment arrangements in the past he did not have much confidence that she would maintain payments at the rate proposed.
- 7 Ms Ledingham advised that she was currently off work due to injury and £50 per month was all that she could offer at the present time. She may be able to increase that offer in a few months when she returns to work. Mrs Milne advised

that she would be able to offer to assist Ms Ledingham with payments of £25 per month. Mr Shepherd thereafter confirmed that he would accept payments of £75 per month.

Findings in Fact

- 8 On 4 June 2020, the First Named Respondent entered into a Tenancy Agreement with the Applicant in respect of the property at 136 Dundee Loan, Forfar.
- 9 In terms of the said Tenancy Agreement the Second Named Respondent agreed to guarantee the First Named Respondent's obligations under the agreement, including the payment of rent.
- 10 In terms of Clause 8 of the said Tenancy Agreement the First Named Respondent undertook to make payment of rent at the rate of £320 per month.
- 11 In terms of Clause 36 of the said Tenancy Agreement the First Named Respondent undertook to reimburse the Applicant for any costs incurred in tracing her to a new address.
- 12 The tenancy terminated on 10 January 2021. As at the date of termination arrears in the sum of £1383.22 were outstanding.
- 13 The deposit of £320 was returned to the Applicant and applied to the said rent arrears leaving a balance of £1063.22.
- 14 The First Named Respondent left no forwarding address. The Applicant instructed a trace of her whereabouts which incurred a cost of £54.
- 15 The sum of £1117.22 is due to the Applicant by the First and Second Named Respondents in terms of the said Tenancy Agreement.
- 16 Despite repeated requests the Respondents have refused or delayed to make payment of the sum due.

Reasons for Decision

- 17 The Tribunal was satisfied that it could make a determination of the application at the Case Management Discussion and that to do so would not be detrimental to the parties.
- 18 Based on its findings in fact, the Tribunal was satisfied that the Respondents were jointly and severally liable to pay the sum of £1117.22. The Tribunal

accepted the evidence of the Applicant that the First Named Respondent had contractual obligations to make payment of rent at the rate of £320 per month and to reimburse the Applicant for the cost of £54 in respect of the trace report, and further that the Second Named Respondent had agreed to guarantee her obligations in this respect. Neither Respondent had disputed this. Accordingly there was nothing before the Tribunal to contradict the position put forward by the Applicant.

19 The Tribunal was however satisfied that the offer of £75 per month from the Respondents was reasonable, and noted that Mr Shepherd had agreed to accept the increased sum. The Tribunal therefore determined to make a time to pay order in those terms, noting that in the event that payment is not forthcoming the Applicant will be in a position to enforce the order for a whole amount due.

20 The Tribunal therefore made an order for payment against the Respondents.

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.

R O'Hare

Legal Member/Chair

17th June 2021

Date