



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/22/3041

Re: Property at 1 Brackla Cottages, Nairn, IV12 5QY (“the Property”)

Parties:

The Trustees of the Cawdor Scottish Discretionary, Cawdor Estate, Estate Office, Cawdor, Nairn, IV12 5RE (“the Applicant”)

Ms Michelle Lynn Matthews and Mr Benjamin Thomas Matthews, 1 Brackla Cottages, Nairn, IV12 5QY (“the Respondents”)

Tribunal Members:

Shirley Evans (Legal Member) and Frances Wood (Ordinary 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 favour of the Applicant in the sum of THIRTEEN THOUSAND EIGHT HUNDRED AND SEVENTY POUNDS (£13 870) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondents.

Background

1. This is an application dated 24 and 25 August 2022 made by the Applicant’s solicitor for an order for payment of rent arrears under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The application was accompanied by a copy of a Private Residential Tenancy Agreement between the parties commencing 8 February 2019, a rent increase notice dated 19 November 2019, various emails between parties from 14 March – 4 May 2022 and a rent statement.

3. On 21 September 2022 the Tribunal accepted the application under Rule 9 of the Regulations.
4. On 9 November 2022 the Tribunal enclosed a copy of the application and invited the Respondents to make written representations to the application by 30 November 2022. The Tribunal advised parties on 10 November 2022 that a Case Management Discussion (“CMD”) under Rule 17 of the Regulations would proceed on 12 December 2022. This paperwork was served on the Respondents by Robert White, Sheriff Officer, Inverness on 10 November 2022 and the Executions of Service was received by the Tribunal administration.
5. Neither Respondent made any written representations by 30 November 2022.

Case Management Discussion

6. The Tribunal proceeded with a CMD on 12 December 2022 by way of teleconference. Mr Johnston from Harper MacLeod, solicitors appeared on behalf of the Applicant. Both Respondents appeared on their own behalf. The case was heard together with a case for repossession of the Property under reference FTS/HPC/EV/3039.
7. The Tribunal had before it the Private Residential Tenancy Agreement between the parties commencing 8 February 2019, a rent increase notice dated 29 November 2019, email correspondence between Rachel Bromby from the Applicant and the Respondents from 14 March – 4 May 2022 and a rent statement to 19 August 2022 showing arrears of £10 970. The Tribunal considered these documents.
8. Mr Johnston moved the Tribunal to grant a payment Order for the increased sum of £13 870. With reference to the tenancy agreement the Tribunal noted that in terms of Clause 7 the Respondents had agreed to pay rent of £710 per month. Mr Johnston referred to the rent increase notice which took effect from 1 March 2020 increasing the rent to £725 per month. With reference to the rent statement, he submitted that there had been no payments to rent since December 2021. Arrears had increased since the application had been lodged and were continuing to increase.
9. In response Mr Matthews explained he and Mrs Matthews were no longer living together and he was working away from home. He candidly admitted they owed arrears of £13 870. They had got themselves into financial difficulties. They had reached the point of no return as they had accumulated other debts. Mrs Matthews also stated she agreed with Mr Matthews and admitted the arrears of £13 870. She added that she worked and that they struggled to pay their bills.

Findings in Fact

10. The Applicant and the Respondents agreed by way of Clause 7 of a Private Residential Tenancy Agreement commencing 8 February 2019 in relation to the Property that the Respondents would pay the Applicant a monthly rent of £710. The rent was increased to £725 as of 1 March 2020.
11. The Respondents have fallen into arrears of rent. The arrears as of 12 December 2022 are £13 870.

Reasons for Decision

12. The Tribunal considered the issues set out in the application together with the documents lodged in support. Further the Tribunal considered the submissions made by Mr Johnston for the Applicant and by both Mr and Mrs Matthews.
13. The Tribunal noted the terms of the tenancy agreement and the rent statement lodged which set out how the arrears had arisen. Mr Johnston had produced evidence of persistent non- payment of rent with reference to the rent statement. The Respondents had both admitted the arrears and did not oppose the Application. The Tribunal was satisfied on the basis of the documents, together with all parties' submissions that the order for payment in favour of the Applicant be granted.

Decision

14. The Tribunal granted an order for payment of £13 870. 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.



Legal Chair

12 December 2022

Date