



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/22/4256

Re: Property at 467 Blackhill Road, Glasgow, G23 5NB (“the Property”)

Parties:

Caledonian Properties Limited, 2 The Cross Court, Bishopbriggs, Glasgow, G64 2RD (“the Applicant”)

Mr Ian Fyfe, 467 Blackhill Road, Glasgow, G23 5NB (“the Respondent”)

Tribunal Members:

Ruth O'Hare (Legal Member) and Angus Lamont (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make a payment order in the sum of Eleven thousand three hundred and twenty seven pounds (£11,327) Sterling

Background

- 1 By application to the Tribunal the Applicant sought an eviction order against the Respondent in respect of the Property under section 33 of the Housing (Scotland) Act 1988. In support of the application the Applicant provided the following documentation:-
 - (i) Short Assured Tenancy Agreement between the parties dated 27 June 2017 and 20 July 2017 together with Form AT5; and
 - (ii) 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 assigned for the 31st March 2023 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 Respondents by Sheriff Officers.
- 3 On 27 March 2023 the Applicant's representative submitted a rent statement showing arrears of £11,327 as at 2 March 2023 and requested amendment of the sum claimed to reflect the updated figure.

Case Management Discussion

- 4 The Case Management Discussion took place by teleconference on 31st March 2023. The Applicant was represented by Mrs Jennifer Cochran. The Respondent was in attendance.
- 5 The Tribunal explained the purpose of the Case Management Discussion and the legal test and asked the parties to address it on their respective positions. For the avoidance of doubt the following is a summary of the submissions made and does not constitute a verbatim account of the discussion.
- 6 Mrs Cochran explained that the Applicant sought a payment order in the amended sum of £11,327. The Respondent did not dispute that the arrears were due. There had been no payments since 26 April 2022 and the sum represented 17 months rent.
- 7 Mr Fyfe addressed the Tribunal. He outlined a history of issues with the property and his relationship with the Applicant's agent. He raised a number of examples including a recent rat infestation which had been reported but nothing was done until the problem intensified, dampness in the property which affected himself and his son, drainage issues with the front driveway and a front hedgerow which had posed a danger to occupants and had to be removed by him when Galbraith failed to do anything. The back garden was in a serious state of disrepair and he had previously injured himself when the steps fell apart. However he did not dispute that the arrears had accrued. He had not advised the Applicant's agent at any point that he was withholding his rent because of the issues he had outlined. He had been made redundant following the pandemic and had struggled to find employment which resulted in him starting a business. It had been a slow process trying to get back on his feet and it continued to be challenging. He confirmed that he had previously applied for, and received, universal credit which included a housing element but the money was not enough to pay his rent and other expenses such as food and caring for his son. He had prioritised the latter as a result and rent was put on a backburner. He had previously entered into a payment arrangement with

Galbraith but had continued to experience financial difficulties and he was becoming resentful due to the breakdown in the relationship with Galbraith. Mr Fyfe confirmed that he intended on raising a claim against Galbraith due to the issues he had experienced as a result of their alleged mismanagement.

Findings in Fact and Law

- 8 The Applicant entered into a Short Assured Tenancy Agreement with the Respondent the term of which was 2 August 2017 to 1 August 2018 and monthly thereafter.
- 9 The monthly rent is £660.
- 10 The Respondent has accrued rent arrears in the sum of £11,327 as at 2 March 2023.
- 11 The Respondent previously received universal credit with a housing element but was unable to make payments towards the rent due to prioritising other expenses.
- 12 The Respondent did not advise the Applicant nor their agent that he was withholding his rent on the basis of issues with the tenancy.
- 13 The said sum of £11,327 is lawfully due under the terms of the tenancy agreement between the parties.
- 14 The Respondent is therefore liable to pay the sum of £11,327 to the Applicant.

Reasons for Decision

- 15 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 Tribunal did not consider there to be any requirement to fix a hearing in the matter as there were no issues to be resolved. The Respondent had confirmed that he did not oppose the application.
- 16 The Tribunal was satisfied based on its findings in fact that the arrears sought by the Applicant were lawfully due under the terms of the tenancy agreement between the parties. There was nothing in the Respondent's submissions that pointed to a stateable defence to the application. He accepted that there were rent arrears and his reasons for non payment appeared a result of his financial situation rather than any allegation that the rent was not due. The Tribunal therefore accepted that he was liable to pay the sum of £11,327 and duly made an order for payment in those terms.

17 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.

31 March 2023

Legal Member/Chair

Date