



**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) Act 2016**

**Chamber Ref: FTS/HPC/CV/23/0249**

**Re: Property at 2 North Mains of Auchleuchries, Hatton, Peterhead, AB42 0TQ (“the Property”)**

**Parties:**

**Dr Gordon Machray Masson, Hill Farm, Sutton Scotney, Winchester, Hampshire, SO21 3NT (“the Applicant”)**

**Mr Mark Robert Taylor, 2 North Mains of Auchleuchries, Hatton, Peterhead, AB42 0TQ (“the Respondent”)**

**Tribunal Members:**

**Jan Todd (Legal Member) and Mike Scott (Ordinary Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £14,875 be granted from the Respondent in favour of the Applicant.**

**Background**

1. This was a case management discussion to consider the application made by the Applicant dated 20<sup>th</sup> November 2022 for an order for payment in respect of rent arrears arising out of a lease of the Property by the Respondent from the Applicant in terms of Rule 111 of the Tribunal Rules. The CMD took place by teleconference.
2. The Applicant is the owner of the Property and Landlord in a Tenancy with the Respondent who is one of the tenants, which commenced on 31<sup>st</sup> October 2019.
3. The Applicant has lodged and the Tribunal had sight of and considered the following documents:-
  - a. Application for rent arrears dated 20<sup>th</sup> January 2023

- b. Copy Tenancy Agreement between the Applicant and the Respondent and Ms Samantha Stephen in respect of the Property dated 3<sup>rd</sup> and 4<sup>th</sup> October 2019
  - c. Rent statement dated from 30<sup>th</sup> February 2022 to 30 December 2022 showing a sum due of £9,625.
4. At the first CMD on 18<sup>th</sup> May the Applicant was represented by his solicitor Mr Andrew Mackey and the Respondent Mr Taylor attended in person. Mr Mackey advised that the Applicant was seeking an order for payment of rent arrears and an order for possession in the conjoined action and stated that the arrears were then £13,125. He advised there has been no further payment from the Respondent since the action was raised and no payment since February 2022 and that the Applicant was seeking an order for the full sum outstanding today.
5. Mr Mackey confirmed that although he was seeking to add Ms Stephen as a second respondent in the eviction application he would not seek to add her to the civil application as his client was aware she had not been living there for some time.
6. Mr Taylor admitted that he had not paid any rent since losing his job in early 2022. And he indicated that he agreed there were rent arrears although he was not wholly clear how much they were indicating the last statement he had was around £12,000. He indicated that he had to claim universal credit when he lost his job and did not have enough money to pay the rent as well as his living and other costs. He stated that after he got another job he tried to make an arrangement to pay with the landlord but he did not respond to him and so Mr Taylor confirmed he did not pay anything. He also advised that he wants to leave the Property and has spoken on several occasions to the Council but they have advised him that they cannot or will not be able to help until the landlord gets an order of eviction.
7. Mr Taylor also confirmed he wished to make an application to pay and when asked indicated that he could offer £300 per month.
8. The CMD was continued to today's date to allow
  - a. The Applicant to seek an increase in the sum sought in this application and to submit a further rent statement.
  - b. The Tribunal also wished to see if the Respondent wished to lodge an application for time to pay.
9. Prior to the CMD today the Applicant lodged 2 further rent statements and a request to increase the sum sought to £14,875 showing that no further rent had been paid since the last CMD.

### **The Case Management Discussion**

1. The CMD took place by teleconferencing and the legal member made introductions and explained the purpose and order of proceedings also advising that the Tribunal could make a decision after a CMD which it could after a hearing if satisfied it was appropriate to do so.
2. Mr Andrew Mackey attended once again as the Applicant's representative and Mr Taylor attended in person on the call.
3. Mr Mackey confirmed that the Respondent is still living in the Property and has accrued arrears since February 2022 as shown on the rent statement that he advised now amounted to £14,875. He explained that although the

tenancy was in joint names with a second tenant Ms Stephen she had left the property in January 2022 and although the tenancy had not been formally ended then, as both tenants would have required to terminate the tenancy the Landlord accepted she was not living there and he was not pursuing her for the rent.

4. Mr Taylor the Respondent advised that he had asked the landlord to evict him around January 2022 and was annoyed that the Landlord had not sought to do so for some time, leading in his view to these arrears being accrued. He advised that he was unable to leave the Property because the Council would not assist him until he had an order for eviction and due to the extent of other debts he had not been able to pay any rent.
5. Mr Taylor admitted that the sum of £14,875 was due but asked the Tribunal to confirm that the rent sought was the same as stated in the lease as he advised the landlord had tried to increase the rent to £950. The Rent statement showed that the rent sought was £875 which is the amount stated in the lease.
6. Mr Taylor advised that he had offered to make a payment plan when the arrears were much less and mentioning that he had now entered into a trust deed for creditors.

### **Findings in Fact**

1. The parties along with a second tenant entered into a lease of the Property in the form of a Private Residential tenancy which commenced on 31<sup>st</sup> October 2019.
2. The Rent due in terms of the lease is £875 per calendar month payable in advance
3. The tenancy is still ongoing
4. The Applicant has sought and been granted in a conjoined application an order for eviction.
5. The rent outstanding at 30<sup>th</sup> June 2023 is £14,875

### **Reasons for Decision**

6. The parties have entered into a lease where the Respondent has leased the property from the Applicant and has agreed to pay £875 per month in rent for which he is jointly and severally liable with the other tenant.
7. The Second tenant vacated the Property around January 2022 and tried to terminate the tenancy but a private rented tenancy has to be terminated by both tenants and this has not been done. No new tenancy has been entered into in the Respondent's sole name.
8. The Respondent has failed to pay the full rent due after being asked to do so. The Applicant is seeking and has just been granted an order for eviction against the Respondent.
9. The Applicants rent statement shows that no rent has been paid from 30<sup>th</sup> February 2022 which the Respondent accepts is true.
10. Given the parties are agreed that the sum of £14,875 is due and outstanding the Tribunal finds it fair and appropriate to make an order for payment for that sum today. There being no application for time to pay the Tribunal makes an order for payment of the sum claimed as stated above.

## **Decision**

An order for payment of the sum of £14,875.00 is granted.

## **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.**

# J Todd

Jan Todd  
Legal Member/Chair

20<sup>th</sup> July 2023  
Date