



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/22/1872

Re: Property at 18 Ivory Court, Aberdeen, AB25 3TD (“the Property”)

Parties:

Winchesters Lettings Limited, 7 Albert Street, Aberdeen, AB25 1XX (“the Applicant”)

Miss Sarah Louise Buchan, 40 Marchburn Drive, Aberdeen, AB16 7NA (“the First Respondent”)

Miss Laura Jane Watson, 31 Leslie Crescent, Westhill, Aberdeenshire, AB32 6UY (“the Second Respondent”)

Tribunal Members:

Ms H Forbes (Legal Member)

Decision (in absence of the Second Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in the sum of £4175.

Background

1. By application received in the period between 15th June and 11th October 2022 and made under Rule 111 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Rules”), the Applicant applied for an order for payment in the sum of £4175. The Applicant’s representative lodged a private residential tenancy agreement commencing on 1st September 2020, a rent statement, and a tracing report.
2. Notification of the application and the forthcoming CMD was made upon the Second Respondent by Sheriff Officer on 1st December 2022, and upon the First Respondent by Sheriff Officer on 2nd December 2022.
3. On 26th January 2023, the Tribunal received an application for a Time to Pay Direction (“TTPD”) from the Second Respondent offering payment by

instalments of £200 per month. This was passed to the Tribunal and parties on the morning of the Case Management Discussion.

The Case Management Discussion

4. A CMD took place by telephone conference on 27th January 2023. The Applicant was represented by Mr Gareth Winchester. The First Respondent was in attendance. The Second Respondent was not in attendance.
5. The Tribunal considered the terms of Rule 29. The Tribunal determined that the requirements of Rule 17(2) had been satisfied, and it was appropriate to proceed with the application in the absence of the Second Respondent.
6. Mr Winchester said the Applicant was not opposed in principle to the TTPD at the sum proposed by the Second Respondent, however, there were some concerns in that the Second Respondent had referred to her half of the debt, when the debt was due jointly and severally. Furthermore, the First Respondent had previously entered into a payment arrangement, but had stopped making payments. Mr Winchester suggested the TTPD be made in the sum of £200 per month, and the Respondents could decide between them how to make payment.
7. The First Respondent said although she had not completed an application for a TTPD, she would wish to offer instalments of £50 per month. She said her circumstances had changed and she is now a parent, working part time, with health issues. She could not afford more than £50 per month.
8. There was some discussion about the way forward and the options open to the Tribunal. The Tribunal was concerned that the Second Respondent was not present and did not seem to have understood that the debt was jointly and severally liable. The Tribunal took the view that the Respondents should have discussed matters and made a joint application between them for a TTPD. It would be open to the Respondents to make an application for a Time to Pay Order ("TTPO") after the payment order is granted.
9. The First Respondent said she would prefer that the payment order was granted in full at this time. This would allow her to discuss matters with the Second Respondent and consider making an application for a TTPO in due course.
10. The Tribunal decided to grant the payment order in full.

Findings in Fact and Law

11.
 - (i) Parties entered into a private residential tenancy that commenced on 1st September 2020.

- (ii) Rent was due in the sum of £650 per month.
- (iii) Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondents.
- (iv) The Applicant is entitled to recover rent lawfully due.

Reasons for Decision

- 12. The Respondents have failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties.
- 13. It is not appropriate, in the circumstances, to make a TTPD without a joint application from both Respondents.

Decision

- 14. An order for payment is granted in favour of the Applicant in the sum of £4175.

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.

H Forbes

Legal Member/Chair

27th January 2023
Date