



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/22/2547

Re: Property at NO 2 SEGGIEDEN COTTAGES, FORFAR, ANGUS, DD8 2JQ (“the Property”)

Parties:

FOTHRINGHAM ESTATE COMPANY LIMITED, FOTHRINGHAM ESTATE OFFICE, INVERARITY, FORFAR, DD8 2JP (“the Applicant”)

MR GARY GRANT, MISS SUZANNE EDWARDS, 4 OVERSTON ROAD, GRANGEMOUTH, FK3 0LB (“the Respondents”)

Tribunal Members:

Graham Harding (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondents to the Applicant in the sum of £6601.82.

Background

1. By application dated 16 August 2022 the Applicant’s representatives, Bidwells, Estate Agents, Perth, applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representatives submitted a copy of the tenancy agreement and AT5 together with a rent statement and bank statement in support of the application.
2. By Notice of Acceptance dated 17 January 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion (“CMD”) was assigned.

3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 17 February 2023.

The Case Management Discussion

4. A CMD was held by teleconference on 20 March 2023. The Applicant was represented by Miss Susanna Thomson of the Applicant's representatives. The Respondents attended in person.
5. Miss Thomson advised the Tribunal that the rent due by the Respondents following the end of the tenancy on 2 December 2022 and the crediting of the Respondents' deposit to the Applicant, amounted to £6601.82. The Tribunal noted that the Applicant's representative's application to amend the sum claimed had not been intimated in time in accordance with the terms of Rule 14A of the Tribunal's Rules of Procedure. However, the Tribunal sought to ascertain from the Respondents if they accepted that this was the sum that was due by them. Mr Grant on behalf of both Respondents confirmed to the Tribunal that they accepted that the sum claimed of £6601.82 was the sum due by them and that they agreed to the claim being amended to that amount. The Tribunal therefore allowed the sum claimed to be amended to £6601.82.
6. Mr Grant advised the Tribunal that the Respondents had completed an application for a Time to Pay Direction but that this had been submitted late. The Tribunal clerk advised that it did not appear to have been received. The Tribunal queried how much the Respondents were offering to pay per month. Mr Grant said that it was £75.00 or £100.00 per month. Ms Edwards explained that she was not in good health and was waiting to go into hospital for an operation. Mr Grant explained that he was currently Ms Edwards carer and had recently had to turn down a job to look after Ms Edwards.
7. For the Applicant Miss Thomson explained that the Applicant would be looking for the debt to be repaid within a few months.
8. The Tribunal noted that the Respondents were not in a financial position to pay the debt off quickly due to their current circumstances and indicated that even if there had been an application for a Time to Pay Direction before it, given the level of debt and the time it would take to clear it at the rate offered it was unlikely that the Tribunal would have granted the application. The Tribunal explained it would be open to the parties to negotiate an extra-judicial agreement to pay by instalments but that as the amount was accepted as due it was appropriate to grant the order sought.

Findings in Fact

9. The Respondent owed rent of £6601.82 as at 2 December 2022 after crediting the Respondent's deposit from Safe Deposits Scotland and this amount was still outstanding at the date of the CMD.
10. The Respondents offered to pay the debt by instalments of £75.00 or £100.00 per month but at this rate it would take between five and a half and seven years to clear the debt.

Reasons for Decision

11. The Tribunal was satisfied from the written representations and documents submitted by the Applicant's representatives together with the oral submissions that the Applicant was entitled to an order for payment by the Respondent in the sum of £6601.82. the Tribunal was also satisfied that it would not be appropriate to make an order for a Time to Pay Direction given the time it would take to clear the debt but given the Respondents current limited circumstances that it would be open to the parties to try to reach an agreement between themselves on how the debt could be repaid.

Decision

12. The Tribunal finds the Applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £6601.82.

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.

Graham Harding

**Graham Harding
Legal Member/Chair**

**20 March 2023
Date**