

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (“the Regulations”)

Chamber Ref: FTS/HPC/CV/20/0025

Re: Property at 29 Jeanette Avenue, Hamilton, ML3 7RS (“the Property”)

Parties:

Mr Mohammed Hanif, c/o 190 St Vincent Street, Glasgow, G2 5SP (“the Applicant”)

Ms Jo-Marie Pirie, 29 Jeanette Avenue, Hamilton, ML3 7RS (“the Respondent”)

Tribunal Members:

Nicola Weir (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order in favour of the Applicant against the Respondent for payment in the sum of £2,100 should be made.

Background

1. By application submitted on 6 January 2020, the Applicant applied for a payment order against the Respondent in respect of unpaid rent for the Property amounting to £2,100 as at the date of the application.
2. On 13 January 2020, a Legal Member of the Tribunal acting with delegated powers from the Chamber President issued a Notice of Acceptance of application in terms of Rule 9 of the Regulations.
3. On 5 February 2020, a copy of the application and supporting documentation was served on the Respondent by Sheriff Officer. The Respondent was notified of the date, time and place of the Case Management Discussion to be held and that any written representations were to be lodged by 24 February 2020.

4. On 5 February 2020, the Respondent emailed the Tribunal Administration to say that she was not going to be able to attend the Case Management Discussion and that she was happy for it to proceed in her absence. She did not seek a postponement of the Case Management Discussion. The Tribunal Administration issued an acknowledgement response and requested that if she intended to lodge written representations or a time to pay application, she should do so by the date stated in the formal notification letter she had received in respect of the Case Management Discussion. No written representations or other response was submitted by the Respondent. No written representations or other documents were lodged by the Applicant.
5. The case called before the Legal Member of the Tribunal for a Case Management Discussion at Glasgow Tribunals Centre on 9 March 2020. The Applicant's representative, Mr Jwad Hanif, Solicitor of Miller, Beckett & Jackson, solicitors was in attendance, as was Ms Ashley MacLachlan, Trainee Solicitor of that firm. Ms MacLachlan was observing only and took no part in the discussions. The Respondent was not in attendance.

Case Management Discussion

6. The Applicant's representative summarised the application, explaining that the Applicant was looking for a payment order in the sum of £2,100, the amount sought in terms of the application in respect of rent arrears. He stated that the Respondent had initially paid rent in respect of the Property but then stopped paying and missed the rental payments due on 3 September 2019, 3 October 2019, 3 November 2019 and 3 December 2019 of £525 each. The Applicant's position is that the Respondent is well aware that she is not paying the due rent and, in discussions with her, the Respondent has indicated that she is saving the money for a rental deposit for another property. The Applicant's representative explained that there is a separate action proceeding at the Tribunal for eviction. The Respondent has not made any payment proposal to the Applicant and has not made any payments since this application was submitted to the Tribunal. There are accordingly further monthly rental payments since the application was submitted which have not been made. The Respondent did contact the Applicant on receipt of the formal paperwork and said that she would get someone to come to the Case Management Discussion on her behalf but she has not done so and has not put in any formal representations to the Tribunal. The Applicant's representative also mentioned that in her email to the Tribunal advising that she would not be attending the Case Management Discussion, she had stated that she was in rent arrears.

Findings in Fact

7. The Applicant is the Landlord of the Property.
8. The Respondent is the Tenant and leased the Property from the Applicant by virtue of a Private Residential Tenancy, commencing on 3 May 2019. She still resides there.

9. The rent in terms of the lease is £525 per calendar month, payable in advance on the 3rd of each month.
10. The Respondent has failed to make the monthly rental payments due on 3 September 2019, 3 October 2019, 3 November 2019 and 3 December 2019.
11. The rent arrears incurred by the Respondent as at the date of the application and sought in terms of the application amounted to £2,100.
12. The sum of £2,100 has not been paid by the Respondent and is due and resting owing to the Applicant.

Reasons for Decision

13. The Respondent did not submit any written representations contesting the Applicant's claim and did not attend the Case Management Discussion, having been properly and timeously notified of same. The Legal Member was satisfied from the information contained in the application and supporting documentation, including the copy lease, together with the oral submissions made by the Applicant's representative at the Case management Discussion that the sum claimed in respect of unpaid rent of £2,100 is due by the Respondent and remains outstanding.
14. The Legal Member therefore concluded that the matter does not require to go to an evidential hearing and that an order for payment in the sum of £2,100 could properly be made at the Case Management Discussion.

Decision

15. The Legal Member accordingly determines that an order for payment by the Respondent of the sum of £2,100 should be made in favour of the Applicant.

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.

Nicola Weir

Legal Member/Chair

9 March 2020

Date