



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/19/0476

Re: Property at 7 Lulworth Court, Dundee, DD4 0LS (“the Property”)

Parties:

Mr Barrie Starck, Pineview, The Square, Meigle, Perthshire, PH12 8RN (“the Applicant”)

Miss Nadine Cassidy, 3 Victoria Street, Dysart, Kirkcaldy, KY1 2UN (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatridge (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be granted in favour of the Applicant. A time to pay direction was made allowing the Respondent to make payment of the principal sum of £1,252.36 by instalments in the sum of £10 per week

Background

The Applicant made an application for payment of outstanding rent in terms of S 71 (1) of the Private Housing (Tenancies) (Scotland) Act 2016 (the 2016 Act).

At a first Case Management Discussion (CMD) on 18 April 2019 the sum sued for was updated to £1,252.60 and the Applicant confirmed that the tenancy had ended on 14 March 2019. The Respondent had moved to a new address and the case was continued to a further CMD on 14 June 2019 for intimation to the Respondent.

The notification and documents were served on the Respondent by Sheriff Officers on 15 May 2019.

An application for a time to pay order was made to the Tribunal by the Respondent on 24 May 2019 detailing her financial situation and asking for time to pay at the rate of £10 per week. The debt was admitted.

On 6 June 2019 the Applicant's agent on behalf of the Applicant consented to the terms of the time to pay application.

The application for payment is unopposed.

The application for a time to pay order is unopposed.

The Case Management Discussion

At the CMD on 14 June 2019 at 10 am the Respondent did not attend. Rebecca Laidlaw and April McCallum from Direct Lettings attended on behalf of the Applicant.

The Applicant's representatives confirmed that an agreement has been reached with the Respondent in terms of her Time to pay application. The Applicant considered that the payments suggested are realistic and are likely to lead to the debt being cleared.

The tribunal considered the following documentary evidence:

1. The application dated 12 February 2019 for an order for payment and attached correspondence appendices
2. Tenancy Agreement commencing 11 June 2018
3. Rent statement
4. Notice to Quit by Respondent for date of 14 March 2019
5. Application for time to pay order of 24 May 2019
6. Reply by Applicant dated 6 June 2019

Findings in Fact

1. The parties entered into a Private Residential Tenancy Agreement for the property on 11 June 2018
2. The tenancy ended on 14 March 2019
3. Rent of £400 per calendar month was payable.
4. From 11 December 2018 to the end date of the tenancy on 14 March 2019 no rental payments were made.
5. At the end of the tenancy period the sum of £1,252.60 remained due and outstanding

Reasons for decision

The Respondent has accepted that the outstanding rent of £1,252.60 is due by her to the Applicant.

The Tribunal grants the order as rent lawfully due to the Applicant by the Respondent had not been paid.

The Respondent now seeks to clear the debt accumulated.

The Tribunal was satisfied that it was reasonable in all the circumstances to grant a time to pay direction, having regard to the nature and reason of the debt, the action taken by the Applicant to assist the Respondent in paying the debt, the Respondent's financial position, the reasonableness of the Respondent's proposal and the Applicant's agreement to the proposal.

From the information on the application for time to pay direction the Tribunal is satisfied that the payment rate proposed is realistic. Although the Tribunal notes that at the proposed rate the repayment of debt would take 2 years and 21 weeks, the Tribunal also notes from the information provided that the disposable free income of the Respondent would not allow for a significantly higher payment rate and takes into

account that the Applicant has consented to the payment rate in the knowledge of the time it will take to clear the sum at the proposed payment rate.

Decision

The Tribunal grants an order against the Respondent for payment of the sum of £1,252.60 to the Applicant. The Tribunal also makes a time to pay direction allowing payment to be made by instalments of £10 per week.

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.

P Hennig-McFatrige

Legal Member

14.6.19

Date