



**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/20/1171**

**Re: Property at 23 Thistle Terrace, Glasgow, G5 0SJ (“the Property”)**

**Parties:**

**Mr Paul McIlroy, c/o TC Young Solicitors, 7 West George Street, Glasgow, G2 1BA (“the Applicant”)**

**Ms Angela Moffat, 23 Thistle Terrace, Glasgow, G5 0SJ (“the Respondent”)**

**Tribunal Members:**

**Shirley Evans (Legal Member)**

**Decision (in absence of the Respondent)**

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Respondent is in breach of the tenancy agreement with the Applicants and has failed to pay rent. The Tribunal accordingly has decided to make an order for payment in the sum of ELEVEN THOUSAND FIVE HUNDRED AND THIRTY EIGHT POUNDS AND THIRTY SEVEN PENCE (£11538.37) STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

**Background**

1. By application dated 11 May 2020, the Applicants’ solicitor applied to the First- tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) for an order for payment of rent arrears under Rule 70 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. On 5 June 2020, the Tribunal accepted the application under Rule 9 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).

- 3 A Case Management Discussion (“CMD”) proceeded on 18 August 2020 by teleconference. The Applicant was represented by Miss Morison from TC Young, solicitors. The Respondent was in attendance, but was not represented. During the course of that CMD the Tribunal allowed the arrears figure to be amended to £11 538.37. The Respondent accepted she was due to pay these arrears to the Applicant and requested that the CMD be continued for her to seek assistance in completing a time to pay application. The CMD was accordingly adjourned for the Respondent to submit the time to pay application. The Tribunal made a Direction that the Respondent was required to lodge the time to pay application by 1 September 2020. The Tribunal stated that in the event the Respondent did not lodge the application in terms of the Direction the Tribunal may discharge any subsequent CMD and grant an order for payment.
- 4 A new CMD was assigned to proceed on 2 October 2020. On 3 September 2020, the Tribunal advised the Respondent that the adjourned CMD would proceed on 2 October 2020. This paperwork was served on the Respondent by way of recorded delivery post and was signed for at the Respondent’s address on 4 September 2020.
- 5 The Respondent did not lodge a time to pay application.

### **Case Management Discussion**

- 6 The Tribunal proceeded with the continued CMD on 2 October 2020 by way of teleconference. The Applicant was represented by Ms Caldwell from TC Young, Solicitors. There was no appearance by or on behalf of the Respondent despite the teleconference starting 10 minutes late to allow the Respondent plenty of time to join. The Tribunal was satisfied the Respondent had received notice under Rule 24 of the Regulations and accordingly proceeded with the CMD in her absence.
- 7 The Tribunal had before it a Short Assured Tenancy Agreement between the Applicant and the Respondent signed and dated 25 and 26 May 2016 and a rent statement. The Applicant had also sent an up to date rent statement to the Tribunal. The Tribunal also had the Note from the CMD of 18 August 2020 and the Notice of Direction also dated 18 August 2020.
- 8 Ms Caldwell moved for an order for payment of arrears in the sum of £11538.37. She referred the Tribunal to the up to date rent statement which showed arrears had increased to £12 006.77 and that a payment of £75.80 had been made on 25 September 2020 by way of benefits. She explained that the Respondent had handed the keys back to the Applicant on 24 September 2020 and that the Applicant had been told that the Respondent was living elsewhere. The Tribunal noted the terms of clause 7 of the Short Assured Tenancy where the Respondent had agreed to pay rent at £620 per month to the Applicant. Arrears had increased since the Application had been lodged from £10 215.69 The

Tribunal also noted that payments had been erratic with long periods where no payments had been made followed by a payment of £1641.41 on 24 October 2019. Thereafter there were monthly payments of £231.88 from 2 November 2019 – 5 May 2020, with a payment of £153.84 on 5 June 2020 and then 4 payments of £75.80 to 25 September 2020.

### **Findings in Fact**

- 9 The Applicant and the Respondent agreed by way of Short Assured Tenancy Agreement dated 25 and 26 May 2016 in relation to the Property that the Respondent would pay the Applicant a calendar monthly rent of £620.
- 10 The Respondent has fallen into arrears of rent. The last payment to account was on 25 September 2020 when housing benefit of £75.80.
- 11 The Respondent vacated the Property on 24 September and has made no payments towards the arrears.
- 12 The arrears as at 11 May 2020, the date of application, were £10 215.69. The arrears at the date of the CMD on 18 August 2020 were £11 538.37. Current arrears are £12 006.77.

### **Reason for Decision**

- 13 The Tribunal considered the issues set out in the application, the Note from the CMD of 18 August 2020 and the Notice of Direction, the Short Assured Tenancy Agreement and the rent statements. Further the Tribunal considered the submissions made on behalf of the Applicant. The Tribunal noted that the Respondent had not complied with the Notice of Direction to lodge a time to pay application despite her request to be allowed time to do so. The Tribunal noted arrears had increased since the CMD on 18 August 2020 and that the Respondent had made no payments to clear the arrears, with only housing benefit being received which did not cover the rent due. The Applicant had produced evidence of persistent and erratic non- payment of rent with reference to the tenancy agreement and the rent statements lodged. The Tribunal was satisfied on the basis of these documents, together with Ms Caldwell's submissions that the order for payment in favour of the Applicant be granted.

### **Decision**

- 14 The Tribunal granted an order for payment of £11 538.37

## **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.

**Shirley Evans**

---

**Legal Member**

**2 October 2020**

---

**Date**