



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/22/0400

Re: Property at 5D Tarbolton Road, Cumbernauld, Glasgow, G67 2AF (“the Property”)

Parties:

Mr David Conner, 17 Blairforkie Drive, Bridge of Allan, Stirling, FK9 4PE (“the Applicant”)

Mr Dominic Marek Kurdanski, Ms Elzbieta Joanna Kurdasinska, 5D Tarbolton Road, Cumbernauld, Glasgow, G67 2AF (“the Respondents”)

Tribunal Members:

Nicola Irvine (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an Order for Payment against the Respondent in favour of the Applicant in the sum of £6,357.

Background

1. An application was submitted on 10 February 2022 in terms of Rule 111 (Application for civil proceedings in relation to a private residential tenancy) of *The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the 2017 Regulations”).
2. The Applicant sought an order for payment in the sum of £5,200, which represented arrears of rent said to have been incurred by the Respondents.
3. By decision dated 14 March 2022, a Convenor of HPC having delegated powers of the Chamber President, referred the application under Rule 9 of the Rules to a Case Management Discussion.

4. In support of his application, the Applicant produced a copy tenancy agreement and statement of rent.
5. The Tribunal intimated the application to the parties by letter of 31 March 2022 and advised them of the date, time and conference call details of today's case management discussion. In that letter, the parties were also told that they required to take part in the discussion and were informed that the Tribunal could make a decision today on the application if the Tribunal has sufficient information and considers the procedure to have been fair. The Respondents were invited to make written representations by 21 April 2022. No written representations were received by the Tribunal.
6. On 5 May 2022 the Applicant submitted an updated rent statement, showing that the rent arrears would increase to £6,357 by 20 May 2022 unless the Respondents made payment. That updated rent statement was not intimated to the Respondents.

The Case Management Discussion

7. The Applicant participated personally in the discussion. The discussion took place by conference call and proceeded in the absence of the Respondents. Approximately 5 minutes into the discussion, the Respondents' son, Krzysztof Kurdanski, joined the conference call and indicated that he represented the Respondents. The Applicant indicated that he has agreed repayment arrangements with the Respondents in the past in relation to rent arrears, but those arrangements have not been honoured. He advised the Tribunal that he seeks payment of the up to date rent arrears, although he is prepared to consider payment by instalment. The Respondents' son advised that the Respondents accept that the level of rent arrears currently stands at £6,357 and that there was no opposition to an order being granted. He advised however that the Respondents wish to pay by instalments. In light of the admission regarding the level of arrears, and in the absence of opposition, the Tribunal allowed the Applicant to amend the sum sued for to £6,357 and thereafter granted an order in that sum in favour of the Applicant. As there was no time to pay application before the Tribunal, the parties were advised that the Tribunal cannot make an order in relation to instalments and that the parties should discuss that directly.

8. Findings in Fact and Law

- a. The Applicant and Respondents entered into a private residential tenancy which commenced on 28 February 2020.
- b. Rent due was £425 per calendar month, payable in advance.
- c. As at 20 May 2022, the Respondents had incurred rent arrears totalling £6,357.

Reasons for Decision

9. Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 provides that the First Tier Tribunal has jurisdiction in relation to civil proceedings arising from private residential tenancies. As this tenancy is a private residential tenancy the Tribunal has jurisdiction to determine the present application.
10. The Respondents failed to submit any written representations. Their son represented them at the case management discussion and advised that there was no opposition to an order for payment being granted.
11. The Applicant had produced an updated rent statement which showed the level of rent arrears as at today. The Applicant sought to amend the sum to £6,357 to reflect the current level of arrears. The amendment did not introduce new issues and there was no opposition to the amendment. The Tribunal was satisfied that the Respondents had incurred rent arrears as reflected in the updated rent statement. The Tribunal therefore granted the application to increase the sum sued for and thereafter granted an order for payment in that sum.

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 Irvine

Legal Member/Chair

20 May 2022

Date