



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) 2016 Act

Chamber Ref: FTS/HPC/CV/23/1308

Re: Property at 3 7 Brewery Close, South Queensferry, Edinburgh, EH30 9LN (“the Property”)

Parties:

Laura Rutherford, 9 Ashburnham Loan, South Queensferry, EH30 9LE (“the Applicant”)

James Martin, 3 7 Brewery Close, South Queensferry, Edinburgh, EH30 9LN (“the Respondent”)

Tribunal Members:

Joel Conn (Legal Member) and Helen Barclay (Ordinary 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 in the sum of £4,065 be granted against the Respondent.

Background

- 1) This was an application by the Applicant for civil proceedings in relation to a private residential tenancy in terms of rule 111 of the *First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017* as amended (“the Rules”), namely an order for payment of rent arrears. The tenancy in question was a Private Residential Tenancy of the Property by the Applicant to the Respondent commencing on 10 June 2021.
- 2) The application was dated 24 April 2023 and lodged with the Tribunal on that date. The application sought payment of arrears of £2,415 stating “the amount may change by the time the application is reviewed / accepted” and was accompanied by a rent statement showing three missed rental payments of £825/month from 10 February to 10 April 2023 less an opening credit balance of

£60 at 10 February 2023. The lease for the Tenancy accompanied the application and it detailed a rental payment of £825 payable in advance on the 10th of each month.

- 3) In advance of the case management discussion (“CMD”) the Applicant’s agent provided an updated rent statement showing that arrears to 10 May 2023 were now £3,240 (due to a further missed rental payment on 10 May 2023). The accompanying email stated that the Applicant wished to amend to increase the sum sought.

The Hearing

- 4) The matter called for a CMD of the First-tier Tribunal for Scotland Housing and Property Chamber, conducted by remote telephone conference call, on 14 June 2023 at 10:00. We were addressed by the Applicant’s agent, Ashleigh Wilson, Portfolio Manager, Retties.
- 5) There was no appearance for the Respondent prior to the CMD. Our clerk confirmed no contact had been made, and the Applicant’s agent stated that there had been no contact with her office since 31 March 2023. On that date, the Respondent had discussed an intention to address arrears and that he was awaiting a response on two properties he had viewed (which was relevant given a conjoined application for eviction under reference EV/23/0528). She said that recent contact had been made to the Respondent intimating the increased arrears and seeking payment, but it had not been responded to. In the circumstances we were satisfied to proceed without the Respondent’s appearance.
- 6) At the CMD, the Applicant’s agent confirmed that the order was still sought but that arrears were now increased to £4,065 due to a further missed payment on 10 June 2023. The sum of £4,065 covered rental liability to 9 July 2023 which, as the Respondent remained in occupation, was due. No payments had been received since January 2023. The Applicant’s agent was not aware of any issues with benefits and understood the Respondent to be in self-employment. The Applicant’s agent confirmed that she still sought to amend the sum sought, and would wish – if allowed – to amend to the current arrears sum due of £4,065.
- 7) No motion was made for expenses. The Applicant’s agent confirmed that no interest was being sought on the sum outstanding.

Findings in Fact

- 8) On 7 and 8 June 2021, the Applicant let the Property to the Respondent under a Private Residential Tenancy with commencement on 10 June 2021 (“the Tenancy”).
- 9) In terms of clause 8 of the Tenancy Agreement, the Respondent requires to pay rent of £825 a month in advance on the 10th day of each month.

- 10) As of 24 April 2023, there was unpaid rent of £2,415 being unpaid rent due for the period 10 February to 9 May 2023, being three unpaid months of rent at £825 per month, less a credit balance held as at 10 February 2023 of £60.
- 11) On 24 April 2023, the Applicant raised proceedings against the Respondent for an order for payment of the rent arrears of £2,415 for the rent due to 9 May 2023, subject to revisal in the sum due.
- 12) On 22 May 2023, the Tribunal intimated to the Respondent the date and time of the CMD of 14 June 2023 by Sheriff Officer.
- 13) The arrears due as at 14 June 2023 are £4,065 being five unpaid months of rent at £825 per month, less a credit balance held as at 10 February 2023 of £60.
- 14) The Respondent provided no evidence of payment of any part of the said unpaid rent of £4,065.

Reasons for Decision

- 15) The application was in terms of rule 111, being an order for civil proceedings in relation to a PRT. We were satisfied, on the basis of the application and supporting papers, that rent arrears of £4,065 were due for the period 10 February to 9 July 2023 and remained outstanding as of today.
- 16) No defence was made by the Respondent to any part of the application. (There was no appearance or defence to the conjoined application either.)
- 17) The application clearly set out the sums and we were satisfied that the necessary level of evidence for these civil proceedings had been provided. In terms of the broad wording of the order sought in terms of the application, we do not think an amendment is technically required but, in any event, we would have granted the amendment sought in the circumstances.
- 18) The Rules allow at rule 17(4) for a decision to be made at CMD as at a hearing before a full panel of the Tribunal. We were thus satisfied to make a decision at the CMD to award the sum of £4,065 against the Respondent being an order restricted to sums due under the Tenancy in regard to rent up to 9 July 2023.

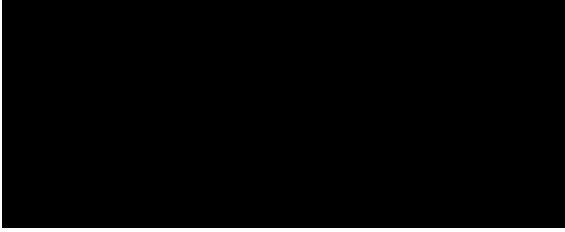
Decision

- 19) In all the circumstances, we were satisfied to make the decision to grant an order against the Respondent for payment of £4,065.

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.



Legal Member/Chair

14 June 2023

Date
