



**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/19/1059**

**Re: Property at 41/1 Lochrin Place, Edinburgh, EH3 9RB (“the Property”)**

**Parties:**

**Mrs Jennifer Graham, Broomlands House, Beattock, Moffat, Dumfries (“the Applicant”)**

**Ms Maud Billion, 41/1 Lochrin Place, Edinburgh, EH3 9RB (“the Respondent”)**

**Tribunal Members:**

**Alastair Houston (Legal Member)**

**Decision**

**The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £4838.83 be made in favour of the Applicant.**

**1. Background**

1.1 This is an application under Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (“the Rules”) being an application for civil proceedings, namely payment of rent arrears. The application was accompanied by copies of the written tenancy agreement between the parties and a statement of the rent account.

**2. The Case Management Discussion**

2.1 The Case Management Discussion took place on 9 July 2019. The application was conjoined with the connected application FTS/HPC/EV/19/1058, being an application for an order for possession of

a property let on an assured tenancy. The two applications were dealt with together at the Case Management Discussion.

- 2.2 The Applicant was represented by Mr Di Rollo of Coulters Lettings Ltd. The Respondent was personally present. Shelter Scotland had previously intimated that they would not be attending on her behalf.
- 2.3 Mr Di Rollo firstly confirmed that he believed that both applications were insisted upon. He had spoken to the Applicant recently who had advised that she wished to proceed. A payment had been received from the local authority on 8 July 2019, reducing the outstanding balance of arrears. The exact figure could be confirmed with his accounts department.
- 2.4 The Respondent confirmed that she understood the basis of both applications. She accepted that rent had gone unpaid. Her monthly rent due under the tenancy agreement was £775.00. She believed that £2144.00 had been paid by the local authority by way of housing benefit on 8 July 2019 however she understood the present arrears to total approximately £5600.00.
- 2.5 She advised that the arrears accrued during the latter part of 2018. She and her partner, with whom she resides, had been running a business. This failed in September 2018. She had accrued a large amount of debt and, additionally, had had family issues.
- 2.6 In response to questions from the Legal Member, the Respondent confirmed she had been receiving Income Support from 19 December 2018. Housing Benefit had also been in payment prior to this date, since approximately September 2018. She received the full rental charge by way of Housing Benefit. This had been paid to her and she had not paid it over to her landlords or their agents due to her financial difficulties. She and her partner resided with their three children aged 6, 4 and 3.
- 2.7 She had not made an offer of payment of the arrears as she had been unable to afford to. Her current income was Income Support and associated child benefits. Housing Benefit was in payment and would be paid from next month.
- 2.8 At this point, the Legal Member adjourned for a short period in order for Mr Di Rollo to confirm the amount of rent outstanding. Following this adjournment, Mr Di Rollo confirmed the total balance was £4838.83.
- 2.9 The Respondent confirmed that she accepted this amount was due. Mr Di Rollo advised that he had only spoken to the Applicant on 7 July 2019, prior to the payment being received from the local authority. The legal member adjourned for a further short period, having been minded to continue the Case Management Discussion for Mr Di Rollo to take firm instructions in light of the payment and for the parties to negotiate a

resolution if possible. The adjournment was to allow a further date to be identified if needed.

2.10 Following the adjournment, Mr Di Rollo advised he had spoken with the Applicant who had confirmed that, despite the payment received from the local authority, she was insisting on both applications. The Respondent, on advice from Shelter Scotland, queried the rule under which the application was made. The Legal Member confirmed it had been made under Rule 65 of the Rules. The Respondent also highlighted that she believed that housing benefit had not been paid for three months from April 2019, albeit it had started again, due to the letting agents advising the local authority that the Respondent was not residing at the Property. Mr Di Rollo had no knowledge of this.

### 3. Reason For Decision

3.1 The Respondent accepted that the rent arrears totalling £4838.83 were due and owing. There was no defence offered by the Respondent. Accordingly, the Legal Member considered that no hearing was necessary and made an order for payment 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.

Alastair Houston

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Legal Member/Chair

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Date

9 July 2019