



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/20/2215

Re: Property at 0/21 220 Wallace street, Glasgow, G5 8AF (“the Property”)

Parties:

Mr Khurshid Khokhar, 21 Islay Drive, Glasgow, G77 6UD (“the Applicant”)

Ms Maryam Najafi, 0/21 220 Wallace street, Glasgow, G5 8AF (“the Respondent”)

Tribunal Members:

Petra Hennig-McFatridge (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of £6,130 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 £6,130 by instalments in the sum of £255 per month.

Procedural Background:

This is an application for a payment order under Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber Rules of Procedure 2017 (the rules). The Applicant submitted the application dated 20 October 2020.

The Applicant submitted the following documents:

1. Tenancy agreements dated 23 July 2015, 9 February 2016
2. Rent statement up to 23 September 2020
3. Authorisation of Representative by Applicant
4. Further Rent statement up to 23 January 2021

The Case Management Discussion:

A Case Management Discussion was held on 17 February 2021. The CMD note is referred to for its terms and held to be incorporated herein.

Following representations made at the CMD, the Respondent lodged a time to pay application on 18 February 2021 offering payment of the outstanding amount at the rate of £255 per month.

This was accepted by the Applicant on 18 February 2021.

Both parties agree that the sum currently owed in rent arrears from the tenancy is £6,130. The parties agree this should be paid by instalments of £255 per month.

Findings in Fact:

1. The parties entered into a Short Assured Tenancy Agreement for the property starting at 23 July 2014. A further agreement was signed commencing 9 February 2016. The tenancy is ongoing.
2. In terms of the lease monthly rent is payable in advance at the rate of £495 per month.
3. As at 23 January 2021 rent arrears of £6,130 are outstanding.
4. The parties are agreed that this should be paid in instalments of £255 per month.
5. At this rate payment of the full sum will take just over 2 years.

Reasons for the Decision:

The Tribunal make the decision on the basis of the written evidence lodged by both parties and the evidence of the parties at the CMD. The facts in the case are not disputed. The rent outstanding as of 23 January 2021 based on the amounts shown in the rent statement and claimed in the application is £6,130. The sum of arrears claimed remained outstanding as of the date of the CMD. There was no defence to the action. It is not in dispute that the sum of £6,130 rent arrears is due by the Respondent to the Applicant.

The Respondent lodged a time to pay application at the CMD which was agreed by the Applicant.

The Applicant is entitled to payment of the sum of £6,130

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

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 and the debt would be cleared within just over 2 years. By way of further explanation, if the financial situation of the Respondent improves in future and she may then be in a position to clear the debt quicker she can make additional payments. The payment order with time to pay at the rate of £255 would not prevent such additional payments taking place.

In light of the fact that the decision was made the day after the CMD in absence of both parties, the Tribunal considers it appropriate that the first payment will be due on 26 February 2021 and then monthly thereafter.

Decision

The Tribunal grants an order against the Respondent for payment of the sum of £6,130 to the Applicant. The Tribunal also makes a time to pay direction allowing payment to be made by instalments of £255 per month.

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.

Petra Hennig McFatridge

Legal Member/Chair

18 February 2021

Date