



Decision 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/23/2232

Re: Property at 105 Martin Avenue, Irvine, KA12 9NT (“the Property”)

Parties:

Erchi Limited, 1 Springfield Gardens, Irvine, KA11 2DD (“the Applicant”)

Miss Jacqueline Kerr, 105 Martin Avenue, Irvine, KA12 9NT (“the Respondent”)

Tribunal Members:

Karen Kirk (Legal Member) and Jane Heppenstall (Ordinary Member)

This was a Case Management Discussion to consider an application for a Payment Order in respect of a Private Residential Tenancy under Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016. The discussion took place by teleconference. The purpose of the hearing being to explore how the parties dispute may be efficiently resolved. This was explained to parties at the outset.

1. Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted a Payment Order against the Respondent for the sum of £11,616.80.

2. Attendance and Representation

The Applicant was not present and was represented by Martha Thomson, Taylor & Henderson, 51 Hamilton street, Saltcoats, KA21 5DX.

The Respondent was not present. She was represented Alistair Meek , Advice and Information Department, CHAP, Michael Lynch Centre for Enterprise, 71 Princes Street, Ardrossan, KA22 8DG

3. Preliminary Matters

The Respondent's representative submitted that the Respondent was not opposed to the application. She accepted liability for the rent arrears due as at the date of the application which were £11,616.80.

There were no other preliminary matters raised.

4. Case Management Discussion

For the Applicant

The Applicant's representative sought a Payment Order for the sum of £11,616.80. She submitted that they were substantial rent arrears. She submitted the arrears had been persistent for some time and were well over 6 months of rent. The Applicant's representative confirmed that the rent arrears were now as at the date of the hearing, £13,616.80. However her instructions were not to amend the sum sought in the application. She sought an order for £11,616.80. The monthly contractual instalment is £400 per calendar month.

For the Respondent

The Respondent's representative set out that the Respondent accepts liability for the rent arrears of £11,616.80. The Respondent is not yet in a financial position to complete a Time to Pay Application and she does not oppose the order sought. The Respondent no longer feels the tenancy is affordable.

5. Findings in Fact

- 1. The Tribunal was satisfied that a decision could be made at the Case Management Discussion and that to do so would not be contrary to the interests of the parties having regard to the Overriding objective. The Respondent was represented and all material matters were not in dispute.**
- 2. The Applicant sought an Order for Payment for the sum of £11,616.80.**
- 3. The Tribunal was satisfied that the Applicant's were the heritable proprietor of the Property as a copy title was lodged with the Application.**
- 4. There was a PRT in place between parties which commenced on 1st October 2018. This was not in dispute.**
- 5. Rent per calendar month due is £400.**

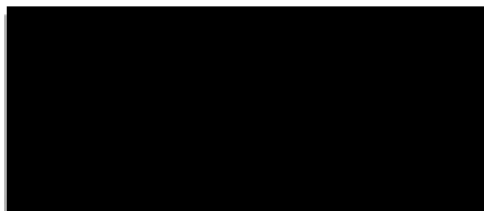
6. Rent statements lodged show that rent due in terms of the tenancy by the Respondent to the Applicant's as at the date of the application 30th June 2023 was £11,616.80. This was not in dispute.
7. Accordingly, in terms of Section 71 of the 2016 Act the Tribunal granted a Payment order against the Respondent for £11,616.80.

6. Reasons for Decision

The Tribunal had before it sufficient evidence showing substantial rent arrears including rent statements showing that arrears due by the Respondent were £11,616.90. The Respondent's representative confirmed the Respondent was not opposed to the application and admitted the debt. The Tribunal was satisfied that order could be granted and proceeded to grant an order for payment.

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

24/11/2023

Date