



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under 71(1) of the Private Housing
(Tenancies) (Scotland) Act 2016 (Act)**

Chamber Ref: FTS/HPC/CV/19/3912

Re: Property at 65 Hammerman Drive, Hilton, Aberdeen, AB24 4SF ("the Property")

Parties:

Mr Bassam Alkari, Mrs Abir Alchikh, 182 North Deeside Road, Milltimber, AB13 0HL; 182 North Deeside Road, Milltimber, Aberdeen, AB13 0HL ("the Applicant")

Mr Aleem Baig, 65 Hammerman Drive, Hilton, Aberdeen, AB24 4SF ("the Respondent")

Tribunal Members:

Alan Strain (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) ("the Tribunal") determined that the order for payment be granted in the sum of £9,600 with interest at the contractual rate of 8% per annum and the Respondent's Time to Pay Application be refused.

Background

This is an application for payment in respect of rent arrears under section 71(1) of the Act and Rule 111 of the Tribunal Procedure Rules.

The Tribunal had regard to the following documents:

1. Application received 10 December 2019;
2. Private Residential Tenancy Agreement (PRTA) commencing 20 March 2018;
3. Rent Statement;
4. Updated Rent Statement;
5. Respondent's Time to Pay Application tendered at the CMD.

Case Management Discussion (CMD)

The case called for a CMD on 19 February 2020. It had previously been postponed on the application of the Respondent from 13 January 2020. No written representations had been received from the Respondent in advance of the CMD.

The Applicants appeared in person and were represented by their Property Manager, Ms Barclay. The Respondent attended the Hearing Centre but did not attend the CMD. The Respondent's representative, Mr Khan appeared for him. Mr Khan explained that the Respondent was not well enough to attend due to suffering from depression and mental illness.

The Tribunal heard from both Parties with regard to the application. Mr Khan intimated that he would have sought to advance the defences that he had advanced in support of the eviction application (EV/19/2373). These were rejected by the Tribunal when it had dealt with the eviction application.

He accepted that the arrears were in the sum of £9,600 and that the Respondent simply did not have the means to pay the Rent arrears. He submitted a Time to Pay Application on the Respondent's behalf.

The Tribunal considered the application and the Applicant's objection to it. The offer was for payment at a rate of £100 per month which would take in the region of 10 years to pay. The Applicants also sought contractual interest at 8% under Clause 8 of the PRTA.

The Tribunal then proceeded to make the following findings in fact:

1. The Parties entered into the PRTA commencing 20 March 2018;
2. The monthly rent was £800;
3. As at the date of the CMD the Respondent was £9,600 in arrears;
4. The Respondent was self-employed and was applying for benefits;
5. The Respondent offered to make payment of the arrears at the rate of £100 per month;
6. The Respondent's financial position was as detailed in the Time to Pay Application.

The Tribunal was satisfied that it had sufficient information to determine the case at this stage and the procedure was fair. The Tribunal considered and found The Respondent was due the Applicants £9,600 in respect of rent arrears. The Parties had agreed interest could be applied at 8% in terms of the PRTA.

The Tribunal considered that in all the circumstances of the case and taking into account the Respondent's financial position as stated in his Time to Pay Application it was not reasonable to grant time to pay at the rate offered.

The Tribunal accordingly granted the order for payment in the sum of £9,600 with interest at 8% per annum.

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.

19 February 2020

Alan Strain
Legal Member/Chair

Date