



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber)**

Chamber Ref: FTS/HPC/CV/20/0811

Re: Property at 7 Lismore Drive, Linwood, Paisley, PA3 3LT (“the Property”)

Parties:

Ms Lillian McLeish, 32 Lang Street, Johnstone PA5 8HL (“the Applicant”)

And

**Christopher Quigley, Jack Quigley and Mrs Susan Quigley, 7 Lismore Drive,
Linwood, Paisley PA3 3LT (“the Respondents”)**

Tribunal Members:

Paul Doyle (Legal Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment should be made.

Background

The Applicant sought an order for payment of rental arrears totalling £2,413.01. The Applicants had lodged with the Tribunal Form F. The Applicant had lodged with the Tribunal Form F. The documents produced were a Short-Assured Tenancy Agreement dated 23/09/2014, and a statement of arrears of rental.

Case Management Discussion

A Case Management Discussion took place before the Tribunal by telephone conference at 11.30am on 10 September 2020. The Applicant was present and represented by Kellie Deans of Pennylane Homes In Johnstone. Christopher Quigley (The First Respondent) was present and spoke for all three respondents.

The applicant’s representative served an up to date statement of arrears of rental. The arrears now total £2,413.01. The applicant asks to amend the sum applied for to £2,413.01 in terms of s13 of the 2017 Procedure Rules. That application is not

opposed. The first respondent agreed that £2,413.01 is the total sum of arrears of rental today. The sum applied for is amended to £2,413.01.

Findings in Fact

The Tribunal made the following findings in fact:

1. The Applicants and the Respondents entered into a Short-Assured Tenancy Agreement for the Property dated 23 September 2014.
2. The period of the Lease was from 23 September 2014 to 23 March 2015 and thereafter on a month to month basis.
3. The initial rent in terms of the Tenancy Agreement was £575.00 per month.
4. The Respondents have failed to make prompt and regular payments of rent due since January 2019. Because they have consistently paid less than the agreed monthly rental, rent arrears have accumulated. At the date of application rent arrears totalled £632.31. At today's date, there are rent arrears of £2,413.01.
5. A case management discussion took place on 5 August 2020. At that hearing the first respondent admitted that all three respondents are responsible for the arrears of rental and asked that the application be continued to today's date so that each respondent can make an application for time to pay. An application for time to pay has been received from the first respondent alone.
6. All three respondents asked for a postponement of today's hearing on 09/09/2020 because they say they are isolating after testing for Covid-19 on Monday 7 September 2020. The application for a postponement was refused on 09/09/2020 because this is a remote hearing designed to accommodate the requirements of self-isolation and social distancing.
7. The respondents do not resist the application. The first respondent alone asks for a time to pay direction and offers to pay the outstanding sum by instalments of £80.00 per calendar month. The applicant is not prepared to accept that offer. I consider the application for time to pay. The total sum due is £2,413.01. It would take 30 months (or 2.5 years) to repay the sum due with those instalments. I note that the first respondent's finances are already stretched, but the time to pay application does not present a realistic proposal to clear sums admittedly due.
8. The applicant is entitled to a payment order against all three respondents in the sum of £2,413.01

Reasons for the Decision

The Tribunal determined to make an Order for payment of £2,413.01. Rent was lawfully due in terms of the Tenancy Agreement at the rate of £575.00 per month. Since January 2019 the respondents have paid less than the monthly rent due so that arrears of rent continue to accrue. There now is a sum due to the applicant by all three respondents of £2,413.01 in arrears of rental.

Decision

For the foregoing reasons, the Tribunal determined to make 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.

Paul Doyle

Legal Member

Date 10 September 2020