



Decision with Statement of Reasons 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/21/1442

Re: Property at 23 Newhalls Road, South Queensferry, EH30 9TA (“the Property”)

Parties:

Mrs Caroline Bell, C/O 11 Grove Street, Edinburgh, EH3 8AF (“the Applicant”)

Mr Kenneth Greig, Mrs Janet Greig, 23 Newhalls Road, South Queensferry, EH30 9TA (“the Respondent”)

Tribunal Members:

John McHugh (Legal Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an order for payment of the sum of £5175 in favour of the Applicant should be made.

Background

The Applicant is the landlord and the Respondent the tenant in terms of a private residential tenancy agreement in respect of the Property dated 11 October 2019. The Applicant seeks payment of rent arrears.

The Case Management Discussion

A Case Management Discussion (“CMD”) took place by telephone conference on 30 August 2021. The Applicant was represented by her letting agent, Amanda Beard. The Respondent was represented by Kenneth Greig.

Findings in Fact

The Applicant is the landlord and the Respondent the tenant in terms of a private residential tenancy agreement in respect of the Property dated 11 October 2019.

Rent is due under the tenancy agreement at the rate of £1150 per month.

Rent arrears and other sums due under the tenancy agreement amount to £5175.

Reasons for Decision

The Application was originally raised in the sum of £3350. By email dated 17 August 2021 the Applicant sought to amend this sum to include further rent outstanding plus a late payment charge of £25. The Tribunal discussed this with Mr Greig at the CMD and he had no objection.

On 27 August 2021, the Respondent provided to the Tribunal an application for a time to pay direction. He had explained in this that his business had suffered during the pandemic but was picking up again. He provided some detail of his income and outgoings and the circumstances which had led to the indebtedness but had not included an actual figure for the payment he proposed. The Respondent had accordingly opposed the application.

The Tribunal raised this point with Mr Greig at the CMD. He initially indicated that he was certain that he had filled in an amount on the form but later said that he had been working over the weekend to establish what his offer would be. He indicated that he intended to start paying rent with effect from 15/16 September and that he would pay rent as per the lease obligation thereafter. In addition, he would offer payment of the outstanding balance of £5175 by two monthly equal instalments in December 2021 and March 2022.

Mrs Beard indicated that that proposal was not acceptable. She reported a history of previously broken promises by the Respondent. She had been told by him previously that business had improved and that he would make payment of the rent but he had not done so. She felt that in circumstances where the Respondent was not even yet paying the ongoing rent, it was unrealistic to think that his offer of increased payments would be fulfilled.

Mr Greig's response was that he did not recall having made or broken promises of payment in his previous discussions with Mrs Beard. The Tribunal considered Mr Greig's written application and advised Mr Greig that it considered that December was a long time for the Applicant to have to wait to see whether the first instalment would arrive. It invited him to make a proposal which involved an earlier payment or a regular monthly payment starting sooner. He advised that he could not offer this. In those circumstances, the Tribunal does not consider it reasonable to make a time to pay direction. The Tribunal will make a payment order.

Decision

The Respondent is ordered to pay to the Applicant the sum of £5175.

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.



John McHugh, Legal Member/Chair

30 August 2021

Date