



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 70(1) of the Private Housing Tenancies (Scotland) Act 2016

Chamber Ref: FTS/HPC/CV/21/1455

Re: Property at 2B William Street, Dundee, DD1 2NL (“the Property”)

Parties:

Nevis Properties Ltd, 6th Floor, Gordon Chambers, 90 Mitchell Street, Glasgow, G1 3NQ (“the Applicant”)

Tay Letting Ltd, 8 Eagle Street, Glasgow, G4 9XA (“the Applicant’s Representative”)

Miss Jane English, 2B William Street, Dundee, DD1 2NL (“the Respondent”)

Tribunal Members:

Ruth O’Hare (Legal Member)

Decision (in absence of the Respondent)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment in the sum of Nine thousand one hundred and twenty two pounds and three pence (£9122.03) against the Respondent and a time to pay order for payment of that sum at the rate of £20 per fortnight.

Background

- 1 By application dated 16 June 2021, the Applicant sought an order for payment of rent arrears in the sum of £8056 against the Respondent. In support of the application the Applicant provided copy Tenancy Agreement between the parties and rent statements.
- 2 By Notice of Acceptance of Application the Legal Member of the Tribunal, with delegated powers from the Chamber President, determined that there were no grounds to reject the application. A Case Management Discussion was

therefore assigned for 1 September 2021, to take place by teleconference due to the ongoing restrictions arising from the Covid-19 pandemic.

- 3 On 19 August 2021 Mr David Gibb emailed the Tribunal on behalf of the Applicant and sought amendment of the sum claimed to £9112.03 to reflect the update to date rent figure. On 20 August 2021, Mr Gibb emailed the Tribunal again to advise that the Respondent had vacated the property.
- 4 On 31 August 2021, Ms Joyce Horsman of Dundee Law Centre contacted the Tribunal by email to advise that she had been instructed by the Respondent and would be representing her at the Case Management Discussion.
- 5 The Case Management Discussion took place on 1 September 2021. The Applicant was represented by Mr David Gibb of Tay Lettings. The Respondent was present and represented by Ms Joyce Horseman.
- 6 As a preliminary point the Legal Member confirmed that the Applicant sought a payment order in the amended sum of £9122.03. Mr Gibb advised that the Respondent had left the property on 19th August 2021. The last payment received was a payment of £700 on 16th June 2020.
- 7 Ms Horseman advised that the original sum claimed in the application was £8056 and the Respondent did not dispute those sums were due. However Ms Horseman had not been in a position to confirm the amended sum was accurate. In response to questions from the Tribunal, Ms Horseman conceded that the Applicant agreed that no payments of rent had been made since 16th June 2020. The Legal Member then asked Mr Gibb to explain the calculation behind the amended sum which he confirmed was a result of an additional payment of rent being applied for July 2020 in the sum of £650 and the remaining balance for August up until the tenancy terminated on 19th August 2021. Ms Horseman confirmed the Applicant accepted the tenancy had terminated on that date. The Legal Member therefore confirmed that she was satisfied that amended balance was accurate and would agree an amendment to the application on that basis. Ms Horseman raised no objection to this.
- 8 Ms Horseman went on to narrate a series of mitigating factors which had impacted on the rent account including allegations of disrepair at the property, a change in the landlord and a subsequent breakdown in relationships between the parties and an ongoing Police investigation. However ultimately she stated that the Respondent was not seeking to put forward any defence to the application and admitted the debt was owed. She did wish to submit a time to pay application, which Ms Horseman had not had the opportunity to advise upon given a late instruction shortly prior to the Case Management Discussion. Mr Gibb confirmed that he would have no objection to a short adjournment of the Case Management Discussion to allow for a time to pay application to be submitted by the Respondent.

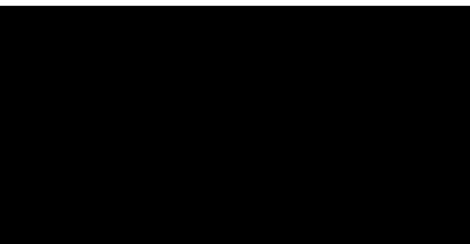
- 9 On that basis the Legal Member determined to adjourn the Case Management Discussion to permit the Respondent to submit a time to pay application.
- 10 The Respondent submitted a time to pay application by email on 9 September 2021 offering payment at the rate of £20 per fortnight. A copy of the application was intimated to the Applicant's Representative who confirmed that the Applicant had no objection to the proposal.

Reasons for Decision

- 11 Rule 41H of the First-tier Tribunal provides that where no written objection is received from a creditor to a time to pay application the First-tier Tribunal must make a time to pay order in accordance with the application. Accordingly on the basis of no written objection from the Applicant to the Respondent's proposal to pay £20 per fortnight the Tribunal was bound to make an order for payment as per the terms of the time to pay application. For the avoidance of doubt, the adjourned Case Management Discussion was therefore cancelled and the making of the order will constitute the Tribunal's final determination of the application.
- 12 The Tribunal therefore made an order for payment against the Respondent in the sum of £9122.03, payable at the rate of £20 per fortnight.

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

16 September 2021
Date