



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

Chamber Ref: FTS/HPC/CV/22/2129

Re: Property at 1/1 7 Brucefield Place, Glasgow, G34 0DX (“the Property”)

Parties:

GBSF1 Ltd, 20 Burton Road, Manchester, Greater Manchester, M20 3ED (“the Applicant”)

Miss Bailey Robertson, Mr Jason Dean, 1/1 16 Dunphail Drive, Glasgow, G34 0DA; 108 Tynecastle Street, Glasgow, G32 0AU (“the Respondents”)

Tribunal Member:

Karen Kirk (Legal Member)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) granted an order for payment against the Respondent for £3600 with interest at 3 percent from the date of the decision.

The First-tier Tribunal also makes a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, in the following terms:

The respondent is required to pay the sum of £120 per month until the full amount has been paid. The first payment must be made no later than 4 weeks after intimation of the Order

Introduction

This Case Management Discussion (CMD) concerned an Application in relation to Civil Proceedings in connection with a Private Residential Tenancy under Section 71(1) of the Private Housing (Tenancies) (Scotland) Act 2016. The CMD took place by teleconference.

1. Attendance and Representation

Miss Alexandra Wooley, Bannatyne Kirkwood France & Co 16 Royal Exchange Square Glasgow, G1 3AG attended for the Applicant's.

No Respondent was present. They had both been served by Sheriff Officer on the 16th August 2022 in regards the first Case Management Discussion in this case. They had been intimated upon in regards this Case Management Discussion. The first Respondent had responded by email to the Note issued by the Tribunal following the first CMD.

2. Preliminary Matters and Previous CMD.

1. The First Tier Tribunal adjourned a previous Case Management Discussion. The Tribunal at that CMD noted the Respondent Miss Bailey Robertson had lodged a late Time to Pay Application but had not been present at the Case Management Discussion to discuss same. It was noted she had a young baby. This was her first offer to engage in matters. The Tribunal considered the Time to Pay application was not reasonable on the basis the offer for payment would mean the debt would be paid in on or around 14 years. However the Tribunal wished to provide the Respondent's one further opportunity to attend or be represented at the Hearing given the Applicant's were willing to consider payment by instalments and given the Respondent Miss Bailey had lodged a Time to Pay Application. It would be open to the Respondents to lodge a further Time to Pay application with an increased proposal should that be possible before the next Hearing.
2. The Respondent Miss Bailey Robertson had sent an email to the Tribunal following their earlier decision offering payment by instalment of the amount of £30 per week. She was not in attendance at the hearing.

3. Case Management Discussion

The Applicant's representative set out that the Applicant's sought a payment order in the first instance and would thereafter be willing to negotiate a payment plan at that point. It was previously confirmed that the Private Residential Tenancy ended in February 2022 and the rent statement dated 24th June 2022 remained valid showing rent arrears due of £3600. A Payment Order of £3600 plus interest was sought.

The Applicant's representative said that the new proposal of £30 per week was more reasonable but the Applicant's would prefer the Payment Order without instalments and then would be willing to negotiate after this. She said the new offer would take the Respondent more than 2 years to clear the debt.

The Applicant's representative further submitted that interest was sought at 3% per cent per anum in light of the level of the debt owed and the time since the debt accrued with the limited engagement.

1. Findings in Fact

1. This Application is dated 24th June 2021 and brought in terms of Rule 111 of the First-Tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017.
2. The Applicant's is the heritable propriety of the property at 1/1 7 Brucefield Place, Glasgow, G34 0D.
3. The Applicant and the Respondent entered into a Private Residential Tenancy for the property on 22nd December 2020.
4. This Tenancy is a Private Residential Tenancy under the Private Housing (Tenancies) (Scotland) Act 2016.
5. Rent payable under this tenancy was £450 per month. The PRT ended in February 2022.
6. As at the rent statement lodged on 24th June 2022 the rent due by the Respondent to the Applicant was £3600.
7. The Tribunal considered it was appropriate in terms of Regulation 41A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended to order having regard to the overriding objective interest on the sum of £3600 at the rate of three percent from the date of the decision.
8. The Tribunal had regard to the whole circumstances of the case, the overriding objective and in the interests and justice and also made a time to pay direction under Section 1(1) of the Debtors (Scotland) Act 1987, in the following terms:

The respondent is required to pay the sum of £120 per month until the full amount has been paid. The first payment must be made no later than 4 weeks after intimation of the Order

2. Reasons for Decision

The Tribunal was satisfied that the Applicant was the heritable proprietor of the Property. The Tribunal was satisfied that there was a Private Residential Tenancy between parties and that on the evidence provided it was appropriate having regard to the overriding objective of the Tribunal to make a determination at the CMD. The Tribunal was satisfied that the Respondent was in arrears of rent lawfully due and an up to date Rent Statement detailing this for the property had been lodged. In terms of Section 71 of the Private Housing (Tenancies) (Scotland) Act 2016 the Tribunal granted an Order for payment for the sum of £3600 against the Respondent with interest of three percent from the date of the Order. The Tribunal considered that the Respondent had lodged a Time to Pay Application and had increased her offer of payment. The Tribunal decided to make a Time to Pay Application. The Respondent

had a low income and a young baby. She had taken steps to increase her offer and in all the circumstances it was appropriate to make a Time to Pay Direction.

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.

Karen Kirk

Legal Member

Date