



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/23/2019

Re: Property at Flat 10, 7 Ellis Drive, Edinburgh, EH14 2AE (“the Property”)

Parties:

Places for People Scotland, 1 Hay Avenue, Edinburgh, EH16 4RW (“the Applicant”)

Mr Dale Zdrojewski, Flat 10, 7 Ellis Drive, Edinburgh, EH14 2AE (“the Respondent”)

Tribunal Members:

Graham Harding (Legal Member) and Jane Heppenstall (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that the Applicant was entitled to an order for payment by the Respondent to the Applicant in the sum of £8836.78.

Background

1. By application dated 20 June 2023 the Applicant’s representatives, Patten & Prentice LLP, Solicitors, Greenock, applied to the Tribunal for an order for payment in respect of alleged rent arrears arising from the Respondent’s tenancy of the property. The Applicant’s representatives submitted a copy of the tenancy agreement together with a rent statement in support of the application.

2. By Notice of Acceptance dated 21 August 2023 a legal member of the Tribunal with delegated powers accepted the application and a Case Management Discussion ("CMD") was assigned.
3. Intimation of the CMD was served on the Respondent by Sheriff Officers on 11 October 2023.

The Case Management Discussion

4. A CMD was held by teleconference on 15 November 2023. The Applicant was represented by Mr Kenneth Caldwell of the Applicant's representatives. The Respondent attended in person.
5. Mr Caldwell advised the Tribunal that the rent arrears currently amounted to £9653.62. The Respondent accepted the sum was due and that he wished to continue to pay £1`000.00 per month towards his rent and the arrears and more if he could afford it.
6. As the conjoined case FTS/HPC/EV/2015 s being continued to a hearing Mr Caldwell wished the application to be continued as well.
7. The Tribunal continued the application to a hearing.
8. By email dated 26 February 2024 the Applicant's representatives submitted further written representations and a current rent statement.

The Hearing

9. The Applicant was represented by Ms Balham and also Mr Caldwell from the Applicant's representatives. The Respondent attended in person. Also in attendance was the Respondent's former partner Ms Louise Wright.
10. Mr Caldwell advised the Tribunal that following payment of £1000.00 on 2 February 2024 the sum now due by the Respondent to the Applicant amounted to £8836.78.
11. The Respondent confirmed he agreed this was the sum due by him.
12. Mr Caldwell asked the Tribunal to grant an order for payment in the sum of £8836.78 together with interest at the rate of 4% per annum that being a reasonable rate of interest to apply on the debt.

Findings in Fact

13. The parties entered into a Private residential tenancy that commenced on 15 April 2021 at a rent of £680.00 per calendar month.
14. The current rent is £727.72 per calendar month.
15. The current amount of rent due by the Respondent to the Applicant amounts to £8836.78.

Reasons for Decision

16. The Tribunal was satisfied from the written representations and documents submitted by the Applicant's representatives together with the oral submissions that the Applicant was entitled to an order for payment by the Respondent in the sum of £8836.78.
17. The Tribunal considered the Applicant's submission that it should apply interest to the sum claimed at the rate of 4% per annum. Rule 41A of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 provides that the Tribunal may include interest when making an order for payment. The Tribunal is not obliged to award interest and the Tribunal noted that the tenancy agreement made no provision for interest on late payment. In the circumstances given that any award of interest was at the discretion of the Tribunal the Tribunal was not satisfied that it should award any interest on the sum claimed.

Decision

18. The Tribunal finds the applicant entitled to an order for payment by the Respondent to the Applicant in the sum of £8836.78.

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.

Graham Harding
Legal Member/Chair

27 February 2024
Date

