



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

Chamber Ref: FTS/HPC/CV/23/3887

Re: Property at No 29. Cummertrees, Cummertrees, Annan, DG12 5QD (“the Property”)

Parties:

Miss Elizabeth Birkbeck, Estate Office, Hoddum, Lockerbie, DG11 1BE (“the Applicant”)

Mr Joseph Nelder, No 29. Cummertrees, Cummertrees, Annan, DG12 5QD (“the Respondent”)

Tribunal Members:

Shirley Evans (Legal Member) and Gerard Darroch (Ordinary Member)

Decision

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined to make an order for payment against the Respondent in favour of the Applicant in the sum of FOUR THOUSAND FIVE HUNDRED AND FORTY FIVE POUNDS (£4545)STERLING. The order for payment will be issued to the Applicant after the expiry of 30 days mentioned below in the right of appeal section unless an application for recall, review or permission to appeal is lodged with the Tribunal by the Respondent.

Background

1. This is an action for recovery of rent arrears in terms of Rule 111 of the First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017 (“the Regulations”).
2. The Respondent’s representative Doreen Beattie, the In-Court Coordinator of D&G Citizens Advice Service lodged written representations on 29 February 2024. These stated that the Respondent did not wish to dispute that there were rent payments due, but he wished to dispute the amounts owed as there appeared to be a payment missing from the customer ledger.

Case Management Discussion

3. The Tribunal proceeded with a Case Management Discussion on 25 March 2024 by way of teleconference. Mr Peoples from Turcan Connell, solicitors appeared on behalf of the Applicant. The Applicant and Katie Kolita were also in attendance. Ms Beattie from D&G Citizens Advice Service appeared on behalf of the Respondent. The Respondent's son, Chris Nelder was also in attendance. The case was heard with an eviction action under case reference FTS/HPC/EV/23/3882.
4. Mr Peoples submitted that the arrears had increased to £4545. He invited the Tribunal to grant an order in that increased sum. He submitted no rent had been paid since 7 August 2023. With reference to the rent statement lodged the Tribunal noted arrears had accrued since 7 August 2023.
5. Ms Beattie accepted the Respondent was in arrears of £4545. She confirmed the application was not opposed.

Decision

6. The Tribunal considered the Applicant's motion to increase the sum of the arrears to £4545. The Tribunal allowed the amendment noting that the Respondent accepted the level of arrears.
7. The Tribunal was satisfied that the arrears had accrued and that the Respondent had not paid rent for over 7 months. The application was not opposed by the Respondent.
8. Accordingly the Tribunal granted an Order for payment. The decision of the Tribunal was unanimous.

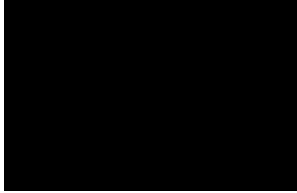
Right of Appeal

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.

Since an appeal is only able to be made on a point of law, a party who intends to appeal the tribunal's decision may wish to request a Statement of Reasons for the decision to enable them to identify the point of law on which they wish to appeal. A party may make a request of the First-tier Tribunal for Scotland

(Housing and Property Chamber) to provide written reasons for their decision within 14 days of the date of issue of this decision.

Where a Statement of Reasons is provided by the tribunal after such a request, the 30 day period for receipt of an application for permission to appeal begins on the date the Statement of Reasons is sent to them.



25 March 2024

Legal Member

Date