

Housing and Property Chamber
First-tier Tribunal for Scotland



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under a tenancy arising from Section 32 of the Housing (Scotland) Act 1988

Chamber Ref: FTS/HPC/CV/19/0289

Re: Property at 16 Bankhead Road, Carmunock, Glasgow, G76 9BW (“the Property”)

Parties:

Mr John Summers, 15 Auchdale Drive, Rhyl, Wales, LL14 4EL (“the Applicant”)

Mr Stephen McIntosh, Mrs Gillian McIntosh, 16 Bankhead Road, Carmunock, Glasgow, G76 9BW (“the Respondent”)

Tribunal Members:

Susan Christie (Legal Member) and Leslie Forrest (Ordinary Member)

Decision (in absence of the Respondents)

The First-tier Tribunal for Scotland (Housing and Property Chamber) (“the Tribunal”) determined that an Order for Payment in favour of the Applicant be granted.

Background

1. The application is for payment of unpaid rent due and was received by the Tribunal on 28 January 2019.
2. A Notice of Acceptance of the Application by the Tribunal made under Rule 9 of the First-tier Tribunal for Scotland (Housing and Property Chamber) Rules of Procedure 2017 as amended (“the Rules”), is dated 11 February 2019.
3. The application type is stated as being made under Rule 70 of the Rules.
4. On 12 March 2019 a letter was sent to the Parties intimating the day and time of the Case Management Discussion and providing accompanying information.
5. On 13 March 2019 Sheriff Officers served a copy of the letter from the Tribunal dated 12 March 2019 on each of the Respondents, specifically drawing their attention to the Case Management Discussion assigned for 3 April 2019 at 2pm in Glasgow Tribunals Centre, Room 109, 20 York Street, Glasgow G2 8GT to which each is required to attend. The mode of service being by way of letterbox service.

6. The letter itself sets out the details of the application made and invites the Respondents to make written representations to the Tribunal by 28 March 2019; highlights to the Respondents that the Tribunal may do anything at a Case Management Discussion which it may do at a Hearing including making a decision on the application which may involve making or refusing an eviction order; and that if either or both did not attend the Case Management Discussion, this would not stop a decision or order being made by the Tribunal if the Tribunal considers that it has sufficient information before it to do so and the procedure has been fair.
7. No written representations were made by Stephen McIntosh, the First Named Respondent. A letter was submitted however by Castlemilk Law & Money Advice Centre intimating that they represent Ms Jillian McIntosh or McHendry (presumably another spelling of the Second Named Respondent) and intimating that they did not represent Steven McIntosh. The letter intimates that Ms McIntosh does not intend to defend the application, accepts the rent arrears but has no means of paying these.

The Case Management Discussion Note & Outcome

8. The Applicant was represented by Ms Crawford of Clarity Simplicity Limited, solicitors.
9. Neither Respondent was in attendance. I was satisfied proper intimation of the date and time had been made on each Respondent.
10. The documents lodged in support of this application were examined and discussed.
11. The initial term of the SAT was 30 November 2017 to 30 May 2018 and continued in terms of the contract thereafter monthly until such times as it is ended by either party giving two months' notice to terminate it.
12. The rent being £800 per calendar month to be paid on the last Friday of every month or before the same date of each calendar month thereafter.
13. As the Applicant is also seeking an order for recovery of possession under another linked application (section 18 of the 1988 Act) and having regard to the Grounds being relied upon it was decided today that a Hearing is required.
14. I was advised the rent arrears now currently stand at £6800. A fresh Rent Account has been prepared by the Applicant's solicitors and will be lodged with the Tribunal in line with timescales in the Rules and intimated to the Respondents well in advance of the Hearing. The Applicant will require to formally apply to the Tribunal to amend the sum sought in addition as it was stated that the higher sum due is to be applied for in this application. The Respondents can then consider their position and whether they accept the amended sum sought or not.
15. Interest is also sought at 8% pa. The SAT does not appear to provide for specific interest therefore the Applicant is to provide such information supporting the application for interest and the percentage justified, all in advance of the Hearing (allowing for time for the crossover of this information to the Respondents). This will allow the Tribunal to consider it at the next Hearing.

16. All Parties will receive intimation of the date and have the opportunity to attend. This will ensure that the procedure is fair and all relevant information provided is considered by the Tribunal before deciding.
17. I was content to continue this application to the same Hearing date to allow for the paperwork to be corrected and updated prior to a decision on it being made.

Further Procedure and documentation

18. On 13 April 2019 a letter was sent to the Parties intimating the day and time of the Hearing.
19. On 16 April 2019 Sheriff Officers served a copy of the letter from the Tribunal dated 13 April 2019 on each of the Respondents, specifically drawing their attention to the Hearing assigned for 15 May 2019 at 2pm in Glasgow Tribunals Centre, Room 107, 20 York Street, Glasgow G2 8GT to which each is required to attend. The mode of service being by way of letterbox service.
20. On 29 April 2019 the Applicant's Representative submitted a corrected and amended Statement of Claim seeking to increase the sum relied upon by way of rent arrears to £6800 as at 29 March 2019 along with supporting documentation as evidence of the breakdown of the payments due, dates thereof and extracts from the Applicant's dedicated bank account for the Property management.
21. The additional documentation submitted was crossed over to the other Parties on 1 May 2019.

The Hearing

22. Ms Machin, Trainee Solicitor, attended from Complete Clarity solicitors, representing the Applicant.
23. Neither Respondent attended.
24. The Applicant seeks a payment order in the sum of £6800 with interest at 8% p.a.
25. The current rent arrears have increased. No payments having been made. No payments having been made by any other means. The applicant has not had any further contact from or on behalf of the Respondents.

Findings in Fact

- I. The Parties entered into a Short Assured tenancy Agreement with an initial term of 30 November 2017 to 30 May 2018 and which continued in terms of the contract thereafter monthly until such times as it is ended by either party giving two months' notice to terminate it.
- II. The rent being £800 per calendar month to be paid on the last Friday of every month or before the same date of each calendar month thereafter.
- III. As at today's Hearing the rent arrears outstanding and owing to the Applicant by the Respondents are £6800 due to 29 March 2019.
- IV. The Applicant is entitled to a payment Order for unpaid rent due and owing.
- V. An Order for Payment is granted in the sum of £6800.

Reasons for Decision & Decision

The Tribunal is satisfied that the unpaid rent due and owing is £6800. An Order is granted in that sum. There was some discussion around the interest claimed. The Tribunal exercising its discretion deemed 3% to be an appropriate rate having regard to value of use and fixed the interest at that rate.

The Tribunal Decision is 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.


Legal Member/Chair

15 May 2019

Date