



**Decision with Statement of Reasons of the First-tier Tribunal for Scotland
(Housing and Property Chamber) under 16 of the Housing (Scotland) Act 2014
Chamber Ref: FTS/HPC/CV/22/4307**

Re: Property at Flat 0/1, 40 Ibrox Street, Glasgow, G51 1SW (“the Property”)

Parties:

Mrs Kristeen Nutini, 35 Highgrove Road, Renfrew, Renfrewshire, PA4 8PY (“the Applicant”)

**Mr Derek John McNaught, Mrs Eilidh McNaught, 48 Dennistoun Crescent,
Helensburgh, G84 7JE; 48 Dennistoun Crescent, Helensburgh, G84 7JE (“the Respondents”)**

Tribunal Members:

Ms H Forbes (Legal 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 should be granted in favour of the Applicant in the sum of £16,457 with interest thereon at the rate of 4% per annum above the base lending rate of the Bank of Scotland.

Background

1. This is an application dated 30th November 2022 and made in terms of Rule 70 of The First-tier Tribunal for Scotland Housing and Property Chamber (Procedure) Regulations 2017, as amended (‘the Rules’). The Applicant is the landlord of the Property, and the Respondents were the tenants, in terms of a short assured tenancy agreement that commenced on 26th February 2013 at an agreed rent per month of £450. The Applicant was seeking an order for payment in respect of rent arrears in the sum of £16,457, the sum of £360 in legal costs, and interest at the rate of 8% per annum. The Applicant lodged a copy of the short assured tenancy agreement, bank statements, a rent statement and copies of text communications between the parties.
2. Service of the application and notification of a Case Management Discussion was served upon the Respondents by Sheriff Officers on 26th January 2023.

The Case Management Discussion

3. A Case Management Discussion (“CMD”) took place by telephone conference on 6th March 2023. The Applicant was in attendance and supported by her husband, Mr Peter Nutini. The Respondents were not in attendance
4. The Tribunal considered the terms of Rule 29. The Tribunal determined that the Respondents had been given reasonable notice of the time and date of the CMD, together with details on joining the telephone conference. The Tribunal determined that the requirements of Rule 17(2) had been satisfied and that it was appropriate to proceed with the application in the absence of the Respondents upon the representations of the Applicant and the material before the Tribunal.
5. The Applicant said there had been no recent contact with the Respondents. She understood they were still living at the address in the instance. The Respondents had left the Property in February 2020. They refused to respond to contact regarding the arrears. A solicitor instructed by the Applicant had sent them a letter demanding payment with no response.
6. Responding to questions from the Tribunal regarding the lack of vouching for the legal costs, and whether this was covered in terms of the tenancy agreement, the Applicant said she had an invoice which could be lodged. There was some discussion about the requirement for this matter to be covered within the tenancy agreement, and whether the CMD should be continued to another date to allow the vouching to be lodged. The Applicant said she would prefer not to continue the matter, and would be satisfied with a payment order in respect of the rent arrears.

Findings in Fact and Law

7.
 - i. Parties entered into a short assured tenancy agreement in respect of the Property commencing on 26th February 2013 at an agreed rent per month of £450.
 - ii. The Respondents left the Property in or around February 2020.
 - iii. Rent lawfully due in terms of the tenancy agreement has not been paid by the Respondents.
 - iv. The Applicant is entitled to recover rent lawfully due.
 - v. In terms of the tenancy agreement, interest is due on outstanding rental payments at the rate of 4% per annum above the base lending rate.

Reasons for Decision

8. The Respondents have failed to make payment of rent lawfully due. The Applicant is entitled to recover rent lawfully due in terms of the tenancy agreement between the parties, with interest thereon.

Decision

9. An order for payment is granted in favour of the Applicant in the sum of £16,457 with interest thereon at the contractual rate of 4% per annum above the base lending rate of the Bank of Scotland from the date of making the decision.

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.

Helen Forbes

Legal Member/Chair

6th March 2023
Date