

Housing and Property Chamber

First-tier Tribunal for Scotland



Decision of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 71(1) of the Private Housing (Tenancies)(Scotland) Act 2006

Chamber Ref: FTS/HPC/CV/22/3496

Property: Flat 16, 6 Dauline Road, South Queensferry EH30 9B (“The Property”)

Parties: Capita Trust Ltd, as Trustee for Housing Fund for Scotland, 1 Hay Avenue, Edinburgh EH16 4RW (“The Applicant”)

Mr Jamie Dall, Flat 16, 6 Dauline Road, South Queensferry EH30 9BP (“The Respondent”)

Tribunal Members:

Mark Thorley (Legal)
Mrs Frances Wood (Ordinary)

Decision

The First Tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) determined that an order for payment by the respondent to the applicant of the sum of £15,833.16 together with interest at the rate of 4% per annum from the date of the order to follow until payment.

Background

1. The applicant applied to the First Tier Tribunal for Scotland (Housing and Property Chamber) (“the tribunal”) by application dated 22 September 2022.
2. Accompanying the application were the following documents:
 - (a) Tenancy Agreement dated the 20 August 2020
 - (b) Rent statement at 15 September 2022

3. The application was received by the tribunal on 28 September 2022. Certain further information was sought thereafter.
4. On 12 January 2023 the application was accepted for determination.
5. The application was served by sheriff officers on the respondent on 14 February 2023.
6. No written representations were made by the respondent.

Case Management Discussion

1. At the case management discussion Mr Caldwell appeared on behalf of the applicant. There was no appearance by or for the respondent.
2. Mr Caldwell indicated that at the date of the case management discussion arrears were now at £19,779.42. The tenancy had commenced in August 2020. Two payments had been made in that month. No further payments have been made. It was now a period of two and half years since the last payment was made.
3. Mr Caldwell did seek to increase the sum sought but accepted that intimation of this to the tribunal had only been made the day before and that the respondent did not have notice of this.
4. At this stage it remained unclear as to whether the respondent was in fact in the property. There was a sign of “activity” in the property but it was not known whether that was in fact the respondent.

Findings in Fact

1. The parties entered into a Private Tenancy Agreement for the lease of the property at Flat 16, 6 Dauline Road, South Queensferry EH30 9BP by way of Tenancy Agreement dated 20 August 2020.
2. The respondent had made two payments in August 2020 towards the rent.
3. No further payment had been made.
4. As at 15 September 2022 rent was outstanding in the sum of £15,833.16.

Reasons for Decision

The respondent had not offered any form of opposition to the application. There was no written representations. There was a clear rent statement. This was spoken to by Mr Caldwell. The rent had never been paid since the first month of the tenancy.

The tribunal accepted that evidence as provided in the rent statement and the submissions by Mr Caldwell.

The only issue for the tribunal was whether to increase the sum sought to the current date but the tribunal were of the view that no intimation of this had been given to the respondent and accordingly restricted the amount due to the sums as at the rent statement dated 15 September 2022.

Decision

To make an order for payment by the respondent to the applicant of the sum of £15,833.60 with interest at the rate of 4% per annum from the date of the order to follow until payment.

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: 

Date: 16 March 2022