



Decision with Statement of Reasons of the First-tier Tribunal for Scotland (Housing and Property Chamber) under Section 16 of the Housing (Scotland) Act 2014

Chamber Ref: FTS/HPC/CV/21/1379

Re: Property at 119A Stirling Street, Denny, FK6 6JB (“the Property”)

Parties:

Galina Grekova, Mr Jesper Lindharth Frederiksen, 7 Burnside Road, Uphall, Broxburn, EH52 5DE (“the Applicant”)

Elaine Bruce Martin, Charlotte Shayne Mears, 119A Stirling Street, Denny, FK6 6JB (“the Respondent”)

Tribunal Members:

Alison Kelly (Legal Member) and Linda Reid (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 the amount of £6258.49 with interest at the rate of 3% per annum from the date of the order should be granted.

Background

On 8th June 2021 the Applicant lodged an Application with the Tribunal under Rule 111 of the First Tier Tribunal for Scotland (Housing and Property Chamber Rules of Procedure) 2017 (“The Rules”), seeking an order for payment of rent arrears in the amount of £3950.

Lodged with the application were: -

1. Copy Tenancy Agreement with the rental period beginning on 9th March 2020;
2. Rent Statement

The Application was served on the Respondents by Sheriff Officers on 30th June 2021.

The Applicant's Representative lodged further documentation by email at 9.30 on the morning of the Case Management Discussion.

Case Management Discussion 5/8/21

The Chairperson introduced everyone and confirmed the purposes of a Case Management Discussion ("CMD") in terms of the Rule 17 of the Rules.

The Applicant was represented by Miss Matheson of Bannatyne, Kirkwood and France, Solicitors. The Respondents did not dial in and were not represented.

The Chairperson confirmed that the Tribunal were not prepared to consider the documents lodged that morning as they had come too late in the day.

This action runs in tandem with an eviction action between the same parties, reference FTS/HPC/EV/21/1378. The eviction action is proceeding to a Hearing, the date to be advised. Miss Matheson moved that the CMD in this action be continued to the date of the Hearing in the eviction action. The tribunal were happy to accede to this request. The case was adjourned to a further CMD to call on the same date as the Hearing set in the eviction action.

Case Management Discussion 21/10/21

The Applicant was represented by Miss Matheson of Bannatyne, Kirkwood and France, Solicitors. The Respondents did not dial in and were not represented.

Miss Matheson explained that the Applicants had recovered possession of the property the previous evening as the Respondents had vacated, and she withdrew the eviction application. She sought a continuation of the CMD in this application to allow the Applicants to amend the sum sued for, to take in to account the level of arrears to the end of the tenancy. The Tribunal were happy to accede to this request.

On 11th January 2022 the Tribunal received an email from the Applicant's solicitor seeking to amend the sum sought to £6258.49 and produced a rent statement showing that balance due as at 18th October 2021, which was the date on which the Respondents vacated the property. They also produced receipts for cleaning and repairs totalling £797 to show that the Respondents' deposit had been used and should not be applied to the rent arrears. The Application to Amend was emailed to the respondents on the same date.

Case Management Discussion 10/02/22

The Applicant was represented by Miss Wooley of Bannatyne, Kirkwood and France, Solicitors. The Respondents did not dial in and were not represented.

Miss Wooley moved the Tribunal to grant an order for payment in the amount of £6258.49, together with interest at the rate of 3% per annum from the date of the order. She submitted that it was a large sum and the respondents had made no attempts to pay it. There was no contractual entitlement to interest, but Miss Wooley cited rule 41A of the Rules, which gives the Tribunal discretion to award interest at a rate determined by them. The Tribunal considered the request for interest and the rate suggested to be reasonable, and granted the said order.

Findings In Fact

1. The parties entered in to a Tenancy Agreement for rent of the property;
2. The rent was £550 per month;
3. The Respondents vacated the property on 18th October 2021;
4. As at 18th October 2021 the Respondents owed the sum of £6258.49.

Reason For Decision

The Respondents owe the sum of £6258.49 by way of rent arrears.

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.

Alison Kelly

Legal Member/Chair

10 February 2022

Date